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CHARTER

ORDINANCES AND RESOLUTIONS

FOR THE GOVERNMENT OF
THE CITY OF

FRANKFORT, KENTUCKY

IN EFFECT JULY 1, 1913

COMPILED BY
JAMES H. POLSGROVE
MAYOR

FRANKFORT, KY.
THE STATE JOURNAL CO.
1913

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RESOLVED THAT THE PRINTING COMMITTEE BE AUTHORIZED TO PURCHASE A NEW SEAL FOR THE CITY, AND THAT THE SAME CONTAIN A REPLICA OF THE NEW CAPITOL BUILDING INSTEAD OF THE STEAMBOAT AS APPEARS ON THE PRESENT SEAL.——March 11, 1910

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CHARTER

General Provisions.

§ 1. COMMUNITIES WITHIN TERRITORIAL LIMITS OF CITIES OF THIRD CLASS. That the several communities embraced in the territorial limits of cities of the third class are hereby constituted and continued municipal corporations and bodies politic by their former names and styles respectively, subject to all liabilities heretofore incurred, and possessing all the rights heretofore acquired.

§ 2. CORPORATE EXISTENCE AND POWERS. Each of said corporations shall have perpetual succession; shall have the right to sue and be sued, plead and be impleaded, contract and be contracted with; to acquire property, and to hold, use, manage, improve, rent, lease, and sell and convey same; and may have a common seal, and alter same at pleasure.

§ 3. LEGISLATIVE, EXECUTIVE AND JUDICIAL DEPARTMENTS. The corporate powers of each of said cities shall be divided into three distinct departments, viz.: The legislative, the executive and the judicial; and no person, or collection of persons, being of one of said departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

§ 4. BOUNDARIES OF CITIES ON OHIO RIVER. The boundaries of all cities of the third-class, which may be situated on the Ohio River, shall extend to the low-water mark on the Ohio, Indiana or Illinois shore.

§ 5. RIGHT OF EMINENT DOMAIN—FEE-SIMPLE TITLE. All cities included in this act shall have and exercise the right and power of eminent domain in all cases where it may be necessary to acquire real estate for public purposes, or to protect the city against public nuisance, the proceedings to be the same as in cases for the right of way

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RIGHTS, POWERS, DUTIES.

§ 1. (1) **Creation of new city government.** When a charter is repealed and a new one granted, it is the creation of a new city government, with its civil and police jurisdiction, as well as the manner of electing its officers. Boyd v. Chambers, 78 Ky., 140.

(2) **Ferry franchise.** Ferries may be granted to trustees of towns when the legal title to land is in them. Trustees of Maysville v. Boon, 2 J. J. M., 224.

(3) **Power of city to purchase property.** Provision in charter conferring upon the city the power to purchase property gives it the right to purchase for governmental purposes only. Purchase by city for its taxes is within its power. Kellar v. Wilson, 90 Ky., 350; 12 R., 471.

(4) **Trespass for injury to streets** may be maintained by the trustees of Frankfort. Dudley v. Trustees of Frankfort, 12 B. M., 610.

(5) **Wharves and wharfage.** Case where privilege was held to have been reserved by original proprietor. Columbus v. Gray, 2 Bush, 476. Where it was not reserved. M. & St. L. Packet Co. v. Grey, 9 Bush, 137. Right of towns on navigable rivers to build wharves and charge wharfage. Newport v. Taylor, 16 B. M., 804. Conditions upon which wharfage may be charged. 2 Bush, 476. Interference by town authorities with privileges conferred upon individuals—right of action. Brown v. Trustees of Catlettsburg, 11 Bush, 435.

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by railroads, under the general law; in all cases where real estate is so acquired a fee-simple title shall vest in the city.

§ 6. LICENSES TO BE ISSUED FOR ONLY ONE YEAR. No license authorized to be issued by the council shall be issued for a longer period than one year, and all licenses shall expire on the thirtieth day of April in each year.

§ 7. CONTRACTS TO BE SIGNED BY MAYOR—CORPORATE SEAL. All contracts and obligations of the city shall be signed on behalf of the city by the mayor, under the corporate seal of the city, and be attested by the city clerk.

§ 8. STOCK IN CORPORATIONS BY MAYOR. Any stock owned or held by the city in any corporation shall, in all stockholders' meetings, be voted by the mayor under the direction of the common council.

§ 9. APPOINTEES TO FILL VACANCIES—COMPENSATION. All appointees to fill temporary vacancies shall be paid at the same rate as the regular incumbents, and when the appointment is made necessary by the willful neglect of duty or misconduct of the regular incumbent, his pay shall be deducted from that of the regular incumbent.

§ 10. OFFICER FAILING TO QUALIFY WITHIN THIRTY DAYS—VACANCY. In any case where one elected or appointed to an office fails for thirty days to qaulify, the office shall be considered vacant.

§ 11. PROCEEDINGS OF PREVIOUS MEETINGS OF THE COUNCIL TO BE READ. At each regular meeting of the council the proceedings of the previous regular meeting and any intervening special meeting or meetings, shall be publicly read, corrected, approved, and signed by the presiding officer and attested by the clerk.

§ 12. OFFICERS TO TAKE OATH BEFORE ENTERING UPON DUTIES. Before any officer enters upon the discharge of the duties of his office, he shall take the oath prescribed by section 228 of the Constitution.

§ 13. ORDINANCE TO BE RECORDED BY THE CLERK AND INDEXED. All ordinances shall be recorded by the city clerk in a separate book, to be kept by him for the purpose, and properly indexed.

§ 14. OFFICERS AND EMPLOYES REMOVABLE BY COUNCIL. All officers, agents or employes elected, appointed or employed by the council may be removed by the council at pleasure.

§ 15. OFFICE—WHEN CONSIDERED VACANT. If any officer, after his election, shall incur any disqualification, or do any act that would have rendered him ineligible if done or existing at the time of his election, his office shall be considered vacant.

LIABILITIES.

(6) **Water company—negligence of.** Inhabitant of city who has suffered loss by fire by reason of a water company's breach of contract with the city to supply water for fire protection may sue the water company without joining the city. Paducah Lumber Co. v. Paducah Water Co., 89 Ky., 340; 11 R., 738.

§ 7. **Power to make contracts for city.** Persons contracting with corporations or their officers must, at their peril, inquire concerning the authority of the contracting agents or officers to build the corporation by such contract. The mayor can not, as a rule, employ counsel to bring an action for the city. City of Owensboro v. Weir, 95 Ky., 158; 15 R., 506. Cases of emergency may arise where the power must necessarily exist. Louisville v. Murphy, 86 Ky., 53; 9 R., 310.

§ 14. **Officers appointed** may be removed by council. Rogers v. Congleton, 27 R., 109.

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§ 16. OFFICERS AND AGENTS—WHEN REQUIRED TO EXECUTE BOND. The council shall have the right to require any officer, agent or appointee of the city to execute bond and prescribe the form, terms and conditions of same, and to require him at any time to give additional security, and upon his failure to comply his office shall be considered vacant.

§ 17. OFFICIAL BONDS TO BE APPROVED BY COUNCIL. Every official bond shall be approved by the council, attested by the clerk, and executed on forms bound in a book to be kept by the city clerk.

§ 18. PROCESS TO RUN IN NAME OF CITY. All process, except as otherwise provided herein, shall run in the name of the city, and shall be directed to and executed by any officer authorized by law to execute same.

§ 19. IMPEACHMENT OF OFFICER BY COUNCIL. Except as herein otherwise provided, any officer of the city, whether elected or appointed, may be impeached and removed from office by the common council, by a three-fourths vote of all the members elected, the ayes and nays being called and entered upon the journal, for incompetency, inefficiency, neglect of duty, or misconduct in office. The method of procedure shall be prescribed by ordinance.

§ 20. RECORDS PUBLIC AND OPEN TO INSPECTION. All the records of the city shall be public records, and at all reasonable times open for inspection by the public, and copies of same, attested by the lawful custodian, shall be competent evidence in all courts.

§ 21. JUDICIAL NOTICE—LIBERAL CONSTRUCTION—REPEAL. This act shall be a public act, and be judicially noticed and liberally contsrued by the courts, and all previous charters of the cities embraced herein, and all amendments thereto, are hereby repealed.

§ 22. PREVIOUS ORDINANCES AND RESOLUTIONS. All ordinances, regulations and resolutions in force at the time this law takes effect and not inconsistent with the provisions thereof, shall remain and be in force until altered, modified or repealed by the council.

§ 23. RIGHTS AND LIABILITIES UNDER PRE-EXISTING CHARTERS. The repeal of any law by the provisions of this law shall not in anywise be so construed as to affect any right or liability acquired or accrued thereunder by or on the part of the city, or any person or body corporate. This law shall not in any manner affect any right, lien or liability accrued, established or subsisting under and by virtue of previous charters or amendments thereto, or ordinances passed thereunder; but such right, lien or liability shall be enforced, and such action or proceeding shall be carried on, in all respects as if this law had not taken effect; nor shall this law be in anywise so construed as to affect the right or liability acquired or accrued under previous charters or amendments thereto, or ordinance passed thereunder, on the part of the city or any persons or body corporate.

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§ 22. Ordinances inconsistent with charter repealed. Wethington v. City, 21 R., 960.

§ 23. Construction of section. Board of Council v. Mason-Ford Co,. 100 Ky., 48; 18 R., 543.

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§ 24. OFFICERS HOLDING OFFICE UNDER PRE-EXISTING CHARTERS. All persons in office in the city at the time this law takes effect, shall hold their offices until their term of office shall have expired, or until their successors are elected and qualified.

§ 25. EMPOWERED TO ISSUE FUNDING BONDS. The cities of the third class in the Commonwealth of Kentucky, namely: Frankfort, Paducah, Henderson, Bowling Green and Owensboro, by, and through their respective legislative boards or councils, are hereby authorized and empowered to issue funding bonds for an amount sufficient to pay off their respective floating debts existing, if any, under contracts prior to the twenty-eighth day of September, one thousand eight hundred and ninety-one: *Provided, however,* That said funding bonds shall only be issued for an amount sufficient to meet the principal of said contract indebtedness. (*Section act of June* 7, 1892.)

§ 26. BONDS—HOW TO BE SIGNED AND NUMBERED—INTEREST. Said bonds, when issued, shall be signed by the mayor and counter-signed by the city clerk of the city authorizing their issual, having the seal of the city affixed thereto. They shall be numbered serially, and be of such form and denomination as the legislative board or council of said city shall prescribe by ordinance; said bonds, however, shall bear not exceeding six per cent interest per annum, payable semi-annually, and shall have interest coupons attached therefor, which shall be signed by the city clerk, and said bonds shall not be issued for a longer period of time than thirty years, and shall not be sold for less than par and accrued interest, and their proceeds shall be used exclusively for the payment of said floating debts, and for no other purpose whatever; said bonds and coupons shall be made payable to bearer, and shall be due at such time, and payable at such place, as shall be provided for in the ordinance authorizing their issual. (*Section act of June* 7, 1892.)

§ 27. PROVISION FOR REDUCTION OF BONDS. Upon the issual of bonds by any city as provided for in this act, it shall be the duty of the legislative board or the city council to cause to be carried annually to the sinking fund of the said city an amount sufficient to pay the annual interest thereon and create a fund for their redemption from time to time, or for their redemption at maturity; and whenever there is a sufficient sum in the sinking fund over and above the amount required for the payment of interest, it shall be used for redemption of so many of said bonds as practicable. (*Section act of June* 7, 1892.)

§ 28. BONDS PAYABLE NOT EXCEEDING THIRTY YEARS FROM DATE. Said bonds shall be due and payable not exceeding thirty years from date thereof, but may be redeemed by said city issuing the same at any time after five years from their date in whole or in part: *Provided, however,* That twenty days' notice shall be given by the city, by publication in a newspaper having general circulation throughout the county wherein said city is located, and in a newspaper having a general circulation throughout the State, of the bonds called in and the

§ 25. Issual of bonds—sinking fund—limitation of and mode of estimating indebtedness. O'Bryan v. City, 24 R., 469.

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time fixed for their redemption, the form and substance of said notice to be provided for in the ordinance of the city authorizing the issual of said bonds. Any bond or bonds not presented for redemption at the time prescribed in the notice shall cease to bear interest. (*Section act of June* 7, 1892.)

§ 29. HOW CITY TRANSFERRED TO ANOTHER CLASS. When the population of any city in this class, as ascertained by the last Federal census, or by a census taken pursuant to an ordinance of said city, authorizing it to be placed in a class other than that in which it is, the council of such city may enact an ordinance, setting forth the population of the city, and how ascertained, the class it is then in, and the class which it is entitled to be in, and may file a petition in the circuit clerk's office of the county, declaring the facts with reference to its population, and the class it desires to become a member of, and such other facts as may be thought proper, and shall file with such petition a copy of the ordinance, and shall cause notice of the filing of such petition, and the object thereof, to be published in at least six issues of a daily or two issues of a weekly paper, of general circulation, published in the city, or in the county, if none be published in the city; or if no paper be published in the city or county, by notices posted up for at least ten days, at four places in said city. On the second day of the next regular term of court, the court shall, if the proper notice has been given, or publication made, and no defense is interposed, enter a judgment assigning such city to the class to which it belongs, as appears from the petition and exhibits, and thereafter such city shall be governed by and under the general laws relating to the class to which it has been assigned, but the transfer from one class to another shall not in anywise impair or affect any ordinance or by-law theretofore enacted by such city, unless the same is in conflict with the general laws relating to cities of the class to which it has been assigned, and to such extent only shall any ordinance or by-law be repealed by the transfer, nor shall the powers, rights, duties or obligations of the city be in anywise affected by the transfer or any officer or employe thereof, or any debtor or creditor of the city. Defense may be made to the petition by any inhabitant of the city; and if defense is made, the court shall hear and determine the same, and render a judgment transferring or refusing to transfer the city to another class, as may seem proper. The pleadings and practice shall be the same as in equity cases, except as herein provided; but if the court shall be satisfied that the population of the city entitles it to be transferred to another class, it shall so adjudge if the proper notice or publication has been made; and no appeal shall lie from the judgment. (*For transfer to another class, see Sec.* 2740 *Ky. Stats.*)

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§ 29. **Census** to ascertain population may be taken. O'Bryan v. City, 24 R., 469.

(2) **Transfer** of city from one class to another by circuit court is held by Jernigan v. City, 102 Ky., 313; 19 R., 1412, to be unauthorized and a violation of the Constitution.

(3) **Effect** of transfer on term, duties and salary of officers in city transferred. Gilbert v. City, 24 R., 1998.

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Legislative Department.

§ 30. LEGISLATIVE POWERS VESTED IN BOARD OF COUNCILMEN. The legislative powers shall be vested in a board of councilmen, which shall be styled the "Common Council."

§ 31. QUALIFICATIONS OF COUNCILMAN—PERSONS INELIGIBLE. No person shall be a councilman who at the time of his election, is not a citizen of Kentucky, has not attained the age of twenty-four years, and who has not actually resided within the corporate limits of the city for which he is elected for two years next preceding his election, and the last year thereof in the ward for which he may be chosen, and who is not a freeholder in the city for which he is elected, or who is interested directly or indirectly, in any contract with said city; or person holding any franchise under, or any contract with, the city; and no collector or keeper of the city funds shall be eligible unless he shall, previous to his election, have settled with the city and obtained a quietus.

§ 32. COUNCIL TO DETERMINE QUALIFICATIONS OF ITS MEMBERS. The common council shall determine as to the qualifications, elections and returns of its members, and cases of ineligibility and contested elections shall be heard and determined by the common council in such manner as shall be defined by ordinance, and the result declared by resolution, the yeas and nays to be called and entered upon the journal.

§ 33. DISQUALIFICATION OF COUNCILMAN AFTER ELECTION. If, after his election, any councilman shall incur any of the disqualifications enumerated in the section before the last, his office shall be thereby vacated, the fact to be ascertained and declared as provided in the preceding section.

§ 34. COUNCILMAN PERSONALLY INTERESTED NOT TO VOTE. A member who has a private or personal interest in any ordinance, by-law, resolution, measure or question, proposed or pending before the com-

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§ 30. (1) **Action against city council.** Mandamus lies against city council to compel the levy and collection of a tax to pay bonds issued to a railroad company. Maddox v. Graham, 2 Met., 56.

(2) **Dogs—punishment for injury done by.** City may keep dogs out of the city, or provide that if anyone keeps a dog in the city he shall be liable for all damages to the peace and security of the city, which might thereby result, even without his fault. Com. v. Steffee, 7 Bush, 161.

(3) **Dogs—tax imposed upon.** Ordinance requiring owner to register and procure from city clerk a stamped collar for each dog, and to pay the clerk, at the time of the registry, two dollars for each dog, is a police regulation. Com. v. Markham, 7 Bush, 486.

(4) **Failure to repair streets and grounds.** Mandamus lies against the trustees. Hammar v. Covington, 3 Met., 494. Trustees of Catlettsburg v. Kinner, 13 Bush, 334. Such streets only as are required for use need be kept in repair. Not liable for injury to a horse on an unused street. Henderson v. Sandefur, 11 Bush, 550.

(5) **License of trades and employments.** General power of the corporation in regard to Adams Express Co. v. Owensboro, 85 Ky., 265; 8 R., 908, and see notes to sec. 181, Con.

(6) **Right to exercise one's trade.** The council can not delegate to a corporation or an individual the power to determine who shall exercise a particular trade, and to determine the penalties for misconduct or neglect in the discharge of his duties. Franke v. Paducah Water Supply Co., 88 Ky., 467; 11 R., 17.

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mon council, shall disclose the fact, and shall not vote thereon upon pain of expulsion.

§ 35. NUMBER COMPOSING COUNCIL—TERM OF OFFICE—ELECTION. The common council shall be composed of twelve members, who shall be elected at a general election by the qualified voters of the city at large. They shall enter upon the discharge of their official duties on the first Monday in December next after their election, and shall hold office two years, and until their successors are elected and qualified. They shall be apportioned equally among the different wards of the city, and not more than the apportioned number shall be eligible from any ward. If there shall be more candidates residing in any ward than the number of members apportioned to said ward, the apportioned number of them receiving the highest number of votes of the qualified voters of the city at large shall alone be eligible. If there shall be a tie vote between any candidates eligible, the tie shall be determined by a majority vote of the common council at its first regular meeting after organization.

§ 36. QUORUM—WHAT CONSTITUTES—ATTENDANCE COERCED. Not less than seven members of the common council shall constitute a quorum to do business, but a smaller number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

§ 37. COUNCIL TO DETERMINE RULES OF PROCEEDING—PUNISHMENT FOR NON-ATTENDANCE. The common council may determine its own rules of proceeding, and may punish any member for non-attendance or any improper conduct while in office,, by fine, suspension or expulsion, two-thirds of all the members concurring being necessary to expel. The said fine, suspension or expulsion to be fixed and declared by resolution, which shall have the same force and effect as the judgment of a court of competent jurisdiction, and from which there shall be no appeal; the yeas and nays being called, and entered with the resolution on the journal. If the offense be committed in the presence of the council while the same is in session, said resolution may be introduced and voted on at once, otherwise the resolution shall lie over at least one regular meeting, and the offending member be notified ten days in advance of the proposed action.

§ 38. PROCESS TO COMPEL ATTENDANCE OF PERSONS AND PAPERS. To enable the common council fully to investigate charges against its members or other officers, or such other matters as it may have authority to inquire into, the mayor or clerk, upon request, is hereby authorized to issue subpoenas, and, by order of the council, compulsory process to compel the attendance of persons and the production of books and papers before the common council or any committee thereof; and

§ 36. **Quorum, what constitutes.** In election of city's officers a majority of those voting—if a sufficient number to constitute a quorum vote—is sufficient to elect; a majority of the whole number present is not required. Members who cast blank ballots, or ballots for persons not before the council as candidates, are to be treated as not voting. Wheeler v. Com., 98 Ky., 59; 17 R., 636; and Morton v. Youngerman, 89 Ky., 505; 11 R., 886.

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the common council is hereby authorized to enforce obedience to such process by fines and forfeitures, the same to be fixed and declared by resolution, which shall have the same force and effect as the judgment of a court of competent jurisdiction, and from which there shall be no appeal; the yeas and nays being called and entered, with the resolution, upon the journal.

§ 39. COUNCIL TO KEEP JOURNAL—PUBLICATION OF ORDINANCES. The common council shall cause to be kept a complete and correct journal of its proceedings, and the proceedings of each session may be published immediately after the adjournment thereof at least once in one or more newspapers published in the city; such newspaper or newspapers to be selected annually by the common council. All ordinances may be published in like manner, and proposed ordinances may be so published between their first and second passages. But the failure so to publish shall not in any way affect the validity of any ordinance. (*Clerk to record and index ordinances, sec.* 13.)

§ 40. VOTE OF COUNCIL TO BE VIVA VOCE—YEAS AND NAYS. The vote on all questions coming before the common council shall be *viva voce*, and upon the request of any member the roll shall be called, and the yeas and nays entered upon the journal.

§ 41. COUNCIL TO MEET SEMI-MONTHLY—COMPENSATION OF MEMBERS. The common council shall hold two regular meetings each month, upon such days as may be fixed by ordinance; and, two-thirds of all members elected concurring, each council may vote the members of the succeeding council, and before their election, compensation, but not to exceed three dollars to each member for each regular meeting he may attend, and the same shall not be changed during their term of office. (*Special meetings called by mayor, sec.* 66.)

§ 42. COUNCIL HAS NO POWER TO RELEASE INDEBTEDNESS. The common council shall have no power to release, extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness or liability of any individual or corporation of the city.

§ 43. EXEMPTION FROM TAXATION—MANUFACTURING ESTABLISHMENTS. The common council shall not exempt any person or property from taxation, and shall not refund to any person any taxes lawfully collected, nor extend the time for the payment of taxes, nor release any penalty incurred by non-payment of taxes; but may, two-thirds of all the members elected concurring, exempt any manufacturing establishment from taxation for a period not exceeding five years, as an inducement to its location.

§ 44. ORDINANCES—WHEN BINDING—STREET ORDINANCE. No ordinance shall take effect and be binding until the same shall have been twice publicly read and passed by the common council at two sessions, held on different days, a majority of those present voting for same on

§ 42. **Passage of ordinance—yeas and nays—entry in journal.** Becker v. City of Henderson, 100 Ky., 450; 18 R., 881.

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both passages, the yeas and nays being called and entered upon the journal: *Provided, however,* That all ordinances requiring the improvements of streets and alleys, or the construction of sewers, or fixing salaries, or prescribing penalties, or fixing the rate of taxation, or amount of licenses, or appropriating money, where the amount appropriated is in excess of one hundred dollars, shall, on each passage, receive the votes of two-thirds of all the councilmen then elected, the yeas and nays being called and entered on the journal. (*Mayor to approve or veto, sec.* 69.)

§ 45. COUNCILMAN INELIGIBLE TO ANY OTHER CITY OFFICE. No councilman shall be eligible to any other city office during that period for which he was elected.

§ 46. ELECTIONS BY COUNCIL SHALL BE VIVA VOCE. All elections by the common council shall be by *viva voce* vote upon call of the roll, and every member present shall be required to vote unless previously excused by a vote of the council.

§ 47. OFFICERS—PROVISION FOR BY COUNCIL—QUALIFICATION. In addition to the officers provided for herein, the council may provide by ordinance for the appointment or election of such others as may be necessary to carry into effect the provisions of this act, and prescribe their powers and duties, but so as not to conflict with the powers and duties of any officer otherwise provided for herein. No person shall be appointed or elected an officer of the city under this section unless he has attained the age of twenty-one years, and been an actual *bona fide* resident of the city for two years next preceding his appointment or election.

§ 48. COMPENSATION OF OFFICERS—STANDING COMMITTEES. The common council shall, subject to the limitations of this act, and previous to their election, fix the compensation of all officers of the city, and provide for the payments of same in monthly installments. The common council shall, by ordinance, determine the number of standing committees, and the number of members which shall compose each committee.

§ 49. POWER TO CONTRACT DEBTS, BORROW MONEY AND ISSUE BONDS. Subject to the limitations imposed by the Constitution and this act, the council shall have the power to contract debts and to borrow money, and to issue the bonds of the city therefor, and to control the finances and the property of the city. The common council shall also have the power to issue bonds in renewal of any bonds theretofore lawfully issued, and to fund any floating indebtedness of the city lawfully contracted. No bonds of the city shall be sold below par.

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§ 45. Power to abolish an office that it creates is vested in council, and this power may be exercised at any time. Board of Council v. Brawner, 100 Ky., 166; 18 R., 648.

§ 48. (1) Dropping name of hindmost candidate. Council in election of officers may do this. Wheeler v. Com., 98 Ky., 59; 17 R., 636.

(2) Powers of de facto councilmen—validity of ordinance. For validity of an ordinance passed by the votes of persons who, although acting as members of the council, were not holding the office by virtue of a valid or legal election or appointment. See Pence v. City of Frankfort, 19 R., 721; 101 Ky., 534.

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§ 50. VACANCIES IN OFFICE TO BE FILLED BY COUNCIL. All vacancies in any office or position in said city, except as otherwise provided herein, shall be filled by the common council until the next regular election, which does not occur less than ten days from the happening or ascertaining of such matter. If the office is elective or appointive by the council, the office may be filled by the council at any regular meeting thereof held after a vacancy occurs therein.

§ 51. DIVISION OF CITY INTO WARDS—CHANGES. The common council may, from time to time, by ordinance, divide said city into wards as near equal in population as possible, but never to exceed six in number; and until changed by ordinance, the wards shall remain as now fixed.

§ 52. ANNEXATION OF TERRITORY—REDUCTION OF BOUNDARY. Whenever it is deemed desirable to annex any territory to any city of this class, or to reduce the boundaries thereof, the city council thereof may enact an ordinance defining accurately the boundary of the territory proposed to be annexed or stricken off, and such ordinance shall thereupon be published in at least ten issues of the daily paper published in, and having the largest circulation in, the city; or, if there be no daily paper published in the city, then in at least four issues of a weekly paper published in, and having the largest circulation in, the city; or, if there be no daily or weekly paper published in the city, then by posting copies of the ordinance for at least ten days in four of the most public places in the city. In not less than thirty days after the enactment of such ordinance, if the publication or notice, as herein provided, has been made or given, and no petition is filed in the circuit court as provided in the next section, the city council may, by ordinance, annex to the city the territory described in the ordinance hereinbefore mentioned, or reduce the limits, as the case may be; and, upon the enactment of such ordinance, such territory shall become a part of such city, or shall be stricken therefrom. Within thirty days after the enactment of an ordinance proposing to annex territory to any city or to reduce the limits thereof, one or more residents or freeholders of the territory proposed to be annexed or stricken off, may file a petition in the circuit court of the county, setting forth the reasons why such territory, or any part thereof, should not be annexed, or why the limits should not be reduced. Summons shall issue thereon, and be executed upon the mayor, or, if he is absent, upon the members of the council, and the answer of the city shall be filed within twenty days after the service of summons. The case shall be tried according to the rules and practice prescribed for the trial of equity causes, but without the intervention of a jury. If the court be satisfied, upon the hearing, that less than seventy-five per cent of the freeholders of the territory to be annexed or stricken off have remonstrated, and that the adding or

§ 50. Annexation of territory—taxation. Property annexed to a city must bear the same burden of taxation as other property, although the annexed territory may not have the same advantages as does other property in the city. Pence v. City of Frankfort, 19 R., 721; 101 Ky., 534; Board of Council v. Scott, 19 R., 1068; 101 Ky., 615; and notes to sec. 171, Con.

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striking off of such territory to the city will be of interest, and will cause no manifest injury to the persons owning real estate in the territory sought to be annexed or stricken off, it shall so find, and said annexation or reduction shall be approved and become final. If the court shall be satisfied that seventy-five per cent or more of the resident freeholders of the territory sought to be annexed or stricken off have remonstrated, then such annexation or reduction shall not take place, unless the court shall find from the evidence that a failure to annex or strike off will materially retard the prosperity of such city, and of the owners and inhabitants of the territory sought to be annexed or stricken off. In case the court shall so find, the annexation or reduction shall take place notwithstanding the remonstrance. There shall be no appeal from the judgment of the court, and there shall be no change of venue from the county. Costs shall follow the judgment. If the judgment of the court be adverse to the annexation or reduction, no further effort to annex or strike off such territory shall be made within two years after the rendition of such judgment. The judgment shall, when entered, be certified to the city council, who may thereupon annex to or strike from the city the territory described in the judgment, and such territory shall become or cease to become, as the case may be, a part of the city. If any city be annexed to another, the city so annexing the territory of another shall be bound for all debts and liabilities, and shall be the owner of all the corporate property, franchises and rights of such municipal corporation.

§ 53. MAP OF CITY—COUNCIL MAY HAVE MADE—EVIDENCE. The common council may, once in every five years, of oftener, have made, by a competent engineer, a competent map of the city, showing all streets, alleys, blocks and lots in said city, and the same of the owner of each lot and the number of same, and the same shall be kept in the office of the city engineer or the city clerk, and shall be competent evidence in any and all courts, either the original, or a copy certified by the city engineer or the city clerk.

§ 54. ORDINANCES TO BE PRINTED AND INDEXED. The common council may, at least once in every five years, have all the ordinances of a general nature then in force printed, indexed, bound and published, and the same shall be competent evidence in any and all courts.

§ 55. COUNCIL—POWER BY ORDINANCE. The common council of each of said cities shall, within the limitations of the Constitution of the

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§ 53. (1) **License tax.** A city can not discriminate in the imposition of a tax, as between sales of goods manufactured in the city and goods manufactured outside of the city. Where a corporation outside of a city places its articles in the hands of an agent in the city for sale, the city may require license tax. 100 Ky., 409; 18 R., 855, and see notes to Con., sec. 181.

(2) **Pest-house—liability of city and members of council for establishing within one mile of city—pleading—joinder of actions.** Clayton v. City, 103 Ky., 228; 20 R., 87. Sprinkling streets by front foot assessment. Act invalid. City of Owensboro v. Sweeney, 33 R., 823.

(3) **Taxation.** Real estate situated within a city is to be taxed as is other property within the city, regardless of any question of benefits or advantage. Board of Council v. Scott, 19 R., 1068; 101 Ky., 615; Pence v. City of Frankfort, 19 R., 721; 101 Ky., 534; and notes to sec. 171, Con.

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State and this act, have power by ordinance: (*License not to be granted for more than one year, sec.* 6.)

1. *Taxation.* To levy and collect taxes upon all property, franchises and privileges taxable for State purposes.

2. *Appropriation of money—debts and expenses.* To appropriate money and provide for the payment of the debts and expenses of the city.

3. *Contagious diseases—quarantine.* To prevent the introduction of contagious diseases into the city, to make quarantine laws for the purpose, and enforce the same within ten miles of the city.

4. *Hospitals, almshouses, prisons, workhouses.* To establish and erect hospitals, almshouses, city prisons, workhouses, make regulations for the government thereof, and to acquire and hold land for the purpose, either within or beyond the boundaries of the city.

5. *Water, light, power, heat and telephone service.* To provide the city and the inhabitants thereof with water, light, power, heat and telephone service, by contract, or by works of its own, located either within or beyond the boundaries of the city. To make regulations for the management thereof, and to fix and regulate the prices to private consumers and customers.

6. *Fire department.* To provide for the prevention and extinguishment of fires, and to organize, establish and maintain fire companies.

7. *Streets, alleys, sidewalks, bridges, culverts and sewers.* To open, alter, abolish, widen, extend, establish, grade, pave or otherwise improve, clean, sprinkle and keep in repair streets, alleys, lanes, avenues and sidewalks, or to have the same done; and to erect, establish, and keep in repair bridges, culberts, sewers, gutters, and to provide for the erection of all buildings for the use of the city; and to make appropriations for same.

8. *Sewers—construction and repair—costs—Apportionment of.* The common council may construct or reconstruct, maintain, alter, repair or change a system of sewers in such manner and at such time as the common council shall, by ordinance, declare, either by general taxation or at the cost of the property-owners. The common council may, by ordinance, construct, build, maintain, repair, alter or change a system of sewers at the cost of the property-owners of said city; but if so constructed, the same shall be done as follows: The common council shall divide said city into districts of not less than three nor more than nine, and as nearly equal in area and population as possible; and not less than one district shall be sewered at one time. The cost of sewering an entire district shall be apportioned among the property-owners of said district ratably, according to the superficial area of said property-owners' holdings in said sewer district. The engineer of the said city shall make the estimate and apportionment of cost to each lot owner, and submit the same to the common council; and when said apportionment shall be received by said council, the amount

§ 39. **Telephone franchise—how granted.** Frankfort Telephone Co. v. Common Council, 30 R., 885.

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found due by said engineer's report from each lot-owner shall become a lien on the property of said property-owner in said sewer district, and shall become due and payable at once, and if not so paid, may be collected by petition in equity, filed in the circuit court of the county by the contractor performing said work for the city; and said court of equity is hereby empowered to enforce said lien and sell said property to satisfy said amount due for constructing sewerage; but the cost of sewering all intersections of streets shall be paid for by the city.

9. *Liquors—license—regulation of sale.* To license, tax and regulate the sale of spirituous, vinous and malt liquors in the city or within one mile thereof.

10. *Vehicles—license, tax and regulation.* To license, tax and regulate hackney carriages, cars, omnibuses, wagons, drays and all other vehicles, and to fix the rate to be charged for the carriage of persons and property within the city, and to the public works and property of the city beyond the city limits.

11. *Theatrical and other amusements—regulation.* To license, tax and regulate theatrical and other exhibitions, shows and amusements, either within the city or within one mile of the city limits, or to prohibit and suppress the same.

12. *Ad valorem and poll-tax and license fees.* Each city shall raise a revenue from *ad valorem* taxes and a poll-tax and license fees, and to that end the common council of each city is hereby authorized and empowered to provide each year by ordinance for the assessment of all real and personal estate within the corporate limits thereof, subject to taxation for State purposes, and shall levy an *ad valorem* tax on same, not exceeding the rate and limit prescribed in the Constitution: and for school purposes, not exceeding fifty cents on each one hundred dollars of taxable property therein, or such portion of the poll-tax or license fee as the council may designate; to levy a poll-tax not exceeding one dollar and fifty cents on each adult male inhabitant thereof, and may impose license fees on stock used for breeding purposes, on franchises, trades, occupations and professions, and provide for the collection thereof. All taxes and license fees shall be levied or imposed by ordinance, and the purpose or purposes for which the same are levied or imposed shall be specified therein, and the revenue therefrom shall be expended for no other purpose than that for which it is collected. (*Con., sec.* 157-159, 180, 181.)

13. *Gambling and disorderly house—obscene literature.* To prohibit and suppress all gambling houses, disorderly houses and bawdy houses, and the selling, displaying or exhibiting obscene pictures and literature.

14. *Nuisances—restraining and preventing.* To regulate, restrain or prevent the establishment or continuance in or near said city of any trade or occupation, business or manufactory offensive to the public or dangerous to health, or in causing or producing fire; and to regu-

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late the sale of fire-arms, and to prevent the carrying of concealed deadly weapons.

15. *Gunpowder and other combustibles—fireworks.* To regulate the storage of gunpowder, tar, pitch, rosin, saltpetre, gun-cotton, coal oil, lime and other combustible, explosive or inflammable material, and the use of lights, candles, lamps, furnaces, stoves, steam-pipes and other heating and lighting appliances in all sorts of buildings and places, and to regulate or suppress the use and sale of fire-crackers, fireworks and toy pistols.

16. *Police regulations—health, comfort and safety.* To make all police regulations to secure and protect the general health, comfort, convenience, morals and safety of the public; and to define, declare, prevent, suppress and remove nuisances either within the city or within one mile thereof.

17. *Weights and measures.* To establish standard weights and measures to be used in the city.

18. *Inspection and measurement of lumber.* To provide for the inspection and measuring of lumber and other building materials.

19. *Inspection and weighing of stone, coal, hay and grain.* To provide for the inspection and weighing or measuring of stone, coal, wood and fuel, hay, corn and other grain, and produce of all kinds.

20. *Inspection of food, oil, whiskey and other spirits.* To provide for and regulate the inspection of beef, pork, flour, meal and other provisions, oil, whiskey and other spirits.

21. *Inspection of milk, butter, and regulating sale of articles of food.* To provide for and regulate the inspection of milk, butter, lard and other provisions; to regulate the vending of meat, poultry, fish, eggs, vegetables and fruits; to restrain and prevent the forestalling and regrading of provisions, and to establish and regulate markets and market-houses and places.

22. *Fines, forfeitures and penalties—confiscation of gaming instruments.* To impose fines, forfeitures and penalties, and terms of imprisonment, for the violation of ordinances and by-laws, and to provide for their recovery and appropriation, and to provide for the seizure and destruction of all instruments of gaming.

23. *Arrest of disorderly persons—suppression of unlawful assemblies.* To provide for the arrest, imprisonment and punishment of all riotous and disorderly persons by day or by night; and for the prevention, suppression and punishment of all riots and breaches of the peace, noise, disturbance or disorderly or unlawful assemblies, either within the city or within one mile of its limits.

24. *Wooden buildings—to prevent erecting and provide for removal of.* To regulate or prohibit and prevent the erection of wooden buildings in such parts of said city as may be deemed proper, and to provide for the removal of the same at the cost of the owners, when erected or continued contrary to ordinance.

25. *Buildings—regulating construction of.* To regulate the construction of all buildings in the city, to prohibit and prevent the con-

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struction of unsafe buildings, or buildings without adequate means of escape in case of fire, and to provide for the inspection of buildings and the construction of fire-escapes.

26. *Removal of dangerous structures.* To impose penalties upon the owner, occupant or agent of any house, wall, sidewalk, or other structure which may be considered dangerous or detrimental to the public, unless, after due notice, to be fixed by ordinance, same be removed or repaired; and to remove or repair same at owner's expense when suffered to remain contrary to ordinance.

27. *Ferries—license, tax and regulation.* To establish, license, tax and regulate all ferries across any river within the limits of said city, or bounding thereon, and to fix ferry rates.

28. *Animals—running at large.* To regulate, tax, license or suppress the keeping and going at large of all animals within the city, to impound the same, and in default of redemption pursuant to ordinance, to sell or kill same.

29. *Public grounds—inclosing and improving.* To provide for inclosing, improving and regulating all public grounds belonging to the city, in or out of the corporate limits.

30. *Navigable rivers.* To improve and preserve the navigation of any navigable rivers within or adjoining said city.

31. *Public wharves, docks and landings.* To erect, repair and regulate public wharves, docks and landings, and to fix the rate of wharfage.

32. *Vessels and rafts—anchoring and mooring.* To regulate the stationary anchorage and mooring of vessels or rafts.

33. *Cemeteries, parks and fountains.* To acquire, establish and maintain public cemeteries, parks, squares, avenues, promenades and fountains, either within or without the city; to make all necessary appropriations for the cost and maintenance of the same, and to make regulations for the government thereof.

34. *Closing of saloons on election days.* To provide for the closing on election days of all places where spirituous, vinous or malt liquors are sold.

35. *Right of way over streets to railways and other companies.* To grant the right of way along, over or across the streets, alleys and public grounds of the city to any railway, street railway, gas, water, steam-heating, telephone or electric-light or power company, for a term not exceeding twenty years. Before granting such franchise or privilege, such city shall first, after advertising same for a period not less than thirty days, in some newspaper published in said city, receive bids therefor publicly, and award same to the highest and best bidder, having the right to reject any and all bids. Said city shall reserve the right to require such companies to conform to any changed or altered grades of said streets and public grounds, to pay the cost of paving or otherwise improving between its rails, and, for reasonable distance on either side thereof, to make culverts beneath same for the free flow of water, and shall not be liable for any damage for delay in

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the operation of the business of any such company occasioned by any street improvement or repairs, or the constructing, bursting or repairing of any sewer or pipe in or across any street, alley or public ground, or injury by any mob or other violence; and shall reserve the right at any and all times to require a change of rails or mode of construction or operation, to suit public convenience, and to require any pipes raised or lowered, and any wires taken down and laid underground, as the public good may require, and shall not be liable for the cost or damage occasioned by such changes, and shall reserve the right and power to regulate and control same, and the streets, alleys and public way wherein they may be laid or constructed, as the public good may require. All such grants shall expire and become void, notwithstanding a consideration shall have been paid therefor, unless a *bona fide* organization shall have taken place and business been commenced and prosecuted thereunder in good faith within one year from the date thereof. The council may impose other conditions and terms in addition to and not inconsistent with those enumerated herein. The provisions in this sub-section as to advertisements and bids, and limiting the grant to twenty years, shall not apply to the grant of the right of way to a trunk railway.

36. *Board of health.* To establish a board of health, and to invest it with such powers and impose upon it such duties as may be deemed necessary.

37. *Board of sinking fund commissioners.* To establish a board of sinking fund commissioners, and to invest it with such powers, and impose upon it such duties, as may be deemed necessary. The board of sinking fund commissioners shall consist of the mayor and two other persons, not city officers, who shall have the same qualifications as councilmen, to be appointed by the mayor and confirmed by the common council, who shall hold their office for four years without compensation. Said commissioners shall make an annual report of their doings and transactions to the common council, and execute bond, to be approved by council, for the faithful discharge of their duties.

38. *Police force.* To provide for the appointment of a police force, and to fix annually, in the month of December, the number of same, and their salaries, which shall be uniform, except the chief of police, may be paid more. In case the common council shall fail in the month of December of any year to fix the number and salaries of the police force, they shall remain for the ensuing year as previously fixed. (*See, further, secs.* 62-63.)

39. *Boundaries of city.* To ascertain by survey, and mark and establish the boundaries and limits of said city, and all enlargements and additions thereof, and of the streets, alleys, lots and blocks thereon, and to make a map of same.

40. *Intention and meaning.* To carry out the full intent and meaning of this act and to accomplish the object of this incorporation.

Subsection 41. That no city of the third class, or town which is, or may hereafter be, the owner of any waterworks system, or lighting

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system by gas or electricity, shall sell or convey or lease or mortgage or otherwise incumber the same, or the income therefrom, without the assent of two-thirds of the total number of legal voters of such city or town voting at the election held for that purpose, to be held only, after sixty consecutive days' notice thereof, next before such election, published in said city or town, in the newspaper having the largest circulation therein. (*Act of March* 23, 1910. *See Acts* 1910, *page* 269.)

Executive Department—Officers.

(*a*) *Mayor.*

§ 56. CHIEF EXECUTIVE—AUTHORITY VESTED IN. The chief executive authority shall be vested in a chief magistrate, who shall be styled the mayor. (*Contracts to be signed by, sec.* 7. *Stock held by city to be voted by, sec.* 8.)

§ 57. ELECTION—TERM—INELIGIBILITY. The mayor shall be elected by the qualified voters of the city for a term of four years, and shall enter upon the discharge of the duties of his office on the first Monday in December next after his election, and shall hold until his successor is elected and qualified. He shall not be eligible for the succeeding term.

§ 58. QUALIFICATIONS. No person shall be eligible to the office of mayor who is not eligible to the office of councilman, except as to residence in any particular ward.

§ 59. PRESIDING OFFICER OF COUNCIL—TIE VOTE—PROCESS. He shall be the presiding officer of the council, shall decide all questions of order, and in case of a tie shall cast the deciding vote; and during the session of the council he shall have the same power to enforce order and decorum, and to punish for contempt that is now, or may hereafter be, conferred by law upon circuit court judges in this Commonwealth; and may issue subpoenas, writs and compulsory process for the attendance of witnesses and the production of books and papers before the council, or any such committee or board, and to enforce same by appropriate fines, forfeitures and punishments, to be entered as an order upon the journal of the council or minute-book of the committee.

§ 60. POLICE JUDGE PRO TEM.—TO APPOINT IN ABSENCE OF REGULAR JUDGE. In case of the absence or disability of the regular judge, he shall designate some person possessing the requisite qualifications to preside over the police court, and when so presiding such person shall have the same power as is conferred by law upon the police judge.

§ 61. ENFORCEMENT OF LAWS AND ORDINANCES, AND DUTIES OF OFFICERS. He shall see that the laws and ordinances of the city are ob-

§ 56. **Power to make contracts for city.** The mayor can not, as a rule, employ counsel to bring an action for a city. City of Owensboro v. Weir, 95 Ky., 158; 15 R., 506. **Cases of emergency may arise when the power must necessarily exist.** Louisville v. Murphy, 86 Ky., 53; 9 R., 310.

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served and enforced, and that all ministerial and executive officers of the city perform their respective duties.

§ 62. POLICEMEN—APPOINTMENT OF—CONSERVATOR OF THE PEACE. He shall appoint all policemen, by and with the advice and consent of the common council, and may remove same at pleasure, and shall designate one of their number to act as chief of police, and change same at pleasure. He may command the police in the performance of executive duty. He shall be a conservator of the peace, and when deemed necessary by him to enforce the law he may summon into service any citizen, but in such cases he must be present and command in person. He shall, in case of emergency, have the power to appoint special policemen in addition to the regular force, but not for a longer period at one time than three days, unless specially authorized by the council, and such special policemen shall be paid at the same rate per day paid regular policemen, and have same power and authority. (*See further, sec.* 55, *sub-sec.* 38.)

§ 63. POLICEMEN TO BE COMMISSIONED—POWERS OF. All policemen shall be commissioned by the mayor in writing, and the commission of all regular policemen shall run to the thirty-first day of the succeeding December, subject to revocation at the pleasure of the mayor. They shall be peace officers of the city and the Commonwealth, with the same powers to make arrests, execute penal and criminal process, and enforce the laws, as is conferred by law upon constables and sheriffs. Their jurisdiction shall be co-extensive with the city and extend one mile beyond its limits.

§ 64. POWER TO ADMINISTER OATHS. He shall have the power to swear witnesses, and to administer oaths generally and to certify same.

§ 65. COUNCIL TO BE KEPT ADVISED—RECOMMENDATIONS. He shall keep the council advised as to the state and condition of the municipality, and recommend to their consideration such measures as he may deem expedient.

§ 66. SPECIAL MEETING OF THE COUNCIL—WHEN TO BE CALLED. He may, when he deems it expedient, and shall, upon the written request of a majority of the members of the council, call a special meeting of the council, but in the call he shall designate the purpose of same, and no other business shall be considered.

§ 67. INFORMATION REQUIRED OF OFFICERS. He may at any time require information from the executive and ministerial officers of the city upon any subject relating to the duties of their respective offices.

§ 68. STATEMENTS REQUIRED OF CITY OFFICERS. He shall annually require of the executive and ministerial officers of the city a detailed statement, in writing, of the business and condition of their respective offices and departments, which statements he shall embody in a report, with such other statements, suggestions, recommendations and information as he may deem proper, which report he may cause to be printed and presented to the common council.

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§ 69. APPROVAL OF ORDINANCES AND RESOLUTIONS—VETO—FAILURE TO RETURN. Every ordinance and every resolution, order or measure appropriating or involving the expenditure of money, and every grant of any license, privilege or franchise shall, within three days after its final passage, be correctly and legibly engrossed by the clerk and presented to the mayor for his approval. If he approve same, he shall sign it. If he shall not approve same, he shall return it, together with his objections, in writing, to the common council at the first regular meeting, which shall not be held within five days after same shall have been presented to the mayor, and same shall be immediately reconsidered by the council, and shall not take effect and be binding unless again passed, two-thirds of all the members elected voting for same, the yeas and nays being called and recorded upon the journal. If the mayor shall fail to return an ordinance, resolution or measure as herein provided, it shall take effect and be in force from the time he should have returned it.

§ 70. PRO TEMPORE APPOINTMENTS—SUSPENSION OF OFFICERS. The mayor shall have the power to make *pro tempore* appointments to fill temporary vacancies occasioned by sickness, absence or other disability of any officer, except councilmen, and to suspend any city officer, except councilmen, for misconduct in office or neglect of duty, reporting his action, with his reasons therefor, in writing, to the next regular meeting of the common council, by whom final action shall be taken.

§ 71. POWER TO BUY AT TAX OR JUDICIAL SALE—SALE AND CONVEYANCE. The mayor shall have power to bid in property for the city at all tax and judicial sales when the city is a party, and it shall be his duty to attend all such sales. He shall have the power to sell and convey same, subject to the approval of the common council.

§ 72. OFFICE IN CONVENIENT PLACE—SUPERVISION OVER OFFICERS AND BOOKS. The mayor shall keep an office in some convenient and public place in the city, to be provided by the council at the expense of the city, and shall keep regular stated office hours, shall not engage in any private business likely to interfere with his official duties, and shall devote his time and attention to the affairs of the city. He shall have supervision over all the ministerial and executive officers of the city, and shall at least once a month examine their books and accounts, and report the result of the same to the council.

§ 73. SALARY PAYABLE MONTHLY—INCREASE OR DECREASE. The mayor shall be paid an annual salary of one thousand dollars, payable monthly out of the city treasury; but the same may be changed by ordinance, but not during his term of office, and shall never be made less than eight hundred dollars per annum nor more than twenty-four hundred dollars per annum.

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§ 69. Necessity for signature of mayor. An ordinance for the improvement of a street does not require the signature of the mayor. Becker v. City of Henderson, 100 Ky., 450; 18 R., 881.

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§ 74. PRO TEMPORE MAYOR—WHEN CHOSEN—POWER. A mayor *pro tempore* shall be chosen by each common council at its first regular meeting after the organization, or as soon thereafter as practical, from among its members, who shall, in the absence of the mayor, or during his disability, or in case of vacancy, perform all the duties and exercise all the powers vested in the mayor; but he shall not approve or veto an ordinance, resolution or measure during the absence or disability of the mayor, unless such absence or disability shall have continued longer than ten consecutive days.

§ 75. PRO TEMPORE MAYOR—COMPENSATION. The mayor *pro tempore* shall be paid for his services while performing the duties of mayor the rate per day paid the regular mayor, less anything he may have received, or be entitled to receive, as councilman during the time: *Provided, however,* The mayor *pro tempore* shall not receive any compensation for performing the duties of the mayor during his absence or disability, unless such absence or disability shall continue longer than ten consecutive days.

(*b*) *City Attorney.*

§ 76. ELECTION BY COUNCIL—TERM OF OFFICE. Each council shall, at its first regular meeting or within one month thereafter, elect a city attorney, who shall hold his office for two years, and until his successor is elected and qualified.

§ 77. QUALIFICATIONS. No person shall be eligible to the office of city attorney who, at the time of his election, is not an actual resident in, and qualified voter of, the city, and who has not been a licensed practicing attorney for at least five years; nor who is a stockholder in, or an officer, agent, attorney or employe of, any corporation or person holding any franchise under, or having any contract with the city.

§ 78. LAW OFFICER OF MUNICIPALITY—DUTIES. The city attorney shall be the general law office of the municipality. He shall attend all meetings of the common council, advise same and all other city officials in all matters pertaining to their duties or affecting the interest of the city, whether called upon to do so or not, and generally to attend to all legal business of the city, except prosecutions in the police court and appeals therefrom.

§ 79. SALARY PAYABLE MONTHLY—FIXED BY ORDINANCE. The city attorney shall be paid an adequate annual salary, payable monthly out of the city treasury, the same to be fixed by ordinance before his election, and not changed during his term of office. In addition to his

§ 76. Rule dropping candidate. Hindmost candidate may be dropped by resolution so providing—if a quorum votes, a majority of the quorum may elect—members who cast blank ballots are to be treated as not voting. Wheeler v. Com., 98 Ky., 59; 17 R., 636.

§ 78. Power of city attorney. City attorney had no authority to agree with taxpayers to rent out property which had been purchased by the city for taxes, and after the rent had satisfied the tax claim to restore the property to them. Keller v. Wilson, 90 Ky., 350; 12 R., 471; and see City v. Lou. R. W. Co., 23 R., 390.

(2) Right to employ assistant counsel. City of Bowling Green v. Gains, 29 R., 1014.

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salary, the city attorney shall be paid his expenses when it shall be necessary for him to go out of the city to attend to legal business for the city, and ten per cent upon all sums recovered and collected by him for the city.

(*c*) *Clerk.*

§ 80. ELECTION BY COUNCIL—TERM OF OFFICE. Each council shall, at its first regular meeting or within one month thereafter, elect a city clerk, who shall hold his office for two years, and until his successor is elected and qualified.

§ 81. QUALIFICATIONS. No person shall be eligible to the office of city clerk who, at the time of his election, is not twenty-one years of age, a resident in, and qualified voter of, the city, a good scribe and a competent bookkeeper.

§ 82. DUTY TO ATTEND MEETINGS OF COUNCIL—TO KEEP RECORD. It shall be the duty of the city clerk to attend all meetings of the council, to keep full and accurate minutes of its proceedings, and to record same before the next regular meeting in a journal to be kept by him for the purpose. (*See, further, sec.* 13.)

§ 83. CAPIAS PRO FINES TO BE ISSUED ON FINES AND FORFEITURES. The clerk shall, within ten days, or sooner if ordered, issue a *capias pro fine* upon each fine and an execution upon each forfeiture imposed by the council or by the mayor, said writs to be in the same form, directed to the same officer, and recorded and made returnable in the same way as upon similar judgments in the police court of the city.

§ 84. GENERAL DUTIES PRESCRIBED BY ORDINANCE. He shall keep such other records and perform such other duties as may be prescribed herein or by ordinance.

§ 85. CUSTODIAN OF CITY'S SEAL AND RECORDS—COPIES—EVIDENCE. He shall be the custodian of the seal of the city, and of all records and papers not properly belonging to some other office, and copies of same, attested by him, shall be competent evidence in all courts.

§ 86. CERTIFICATION OF LICENSES TO AUDITOR AND TREASURER. He shall, immediately after adjournment, certify to the auditor and treasurer of the city all licenses granted, and all claims allowed by the common council.

§ 87. APPOINTMENT OF DEPUTY—REMOVAL. He may, in writing signed by him, to be approved by the council and entered upon the journal, appoint a deputy, who shall have all the powers of the clerk, and for whose acts and omissions the clerk shall be responsible. Said deputy shall be subject to removal by the clerk at his pleasure.

§ 88. FEES AND COMPENSATION. In addition to the fees herein prescribed, the city clerk shall be paid such compensation as shall be prescribed by ordinance, and which shall not be changed during his term of office.

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§ 88. **Fees—liability of city for.** Act of city disabling clerk to collect fees of defendants in misdemeanor cases renders the city liable to the clerk for the fees. Paducah v. Calhoun, 78 Ky., 323; but see Wethington v. City, 21 R., 960.

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(*d*) *Auditor.*

§ 89. ELECTION BY COUNCIL—TERM OF OFFICE. Each council shall, at its first regular meeting, or within one month thereafter, elect a city auditor, who shall hold his office for two years, and until his successor is elected and qualified.

§ 90. QUALIFICATIONS. His qualifications shall be the same as those of the city clerk.

§ 91. GENERAL ACCOUNTING OFFICER—OTHER DUTIES. He shall be the general accounting officer of the city, and shall perform such other duties as may be prescribed herein or by ordinance.

§ 92. WARRANT ON TREASURER—DUTIES IN REGARD TO. It shall be his duty to draw his warrant upon the treasurer for the payment of all duly authorized claims against the city, which warrant shall state the name of the person to whom said claim is payable, for what, and the fund out of which same is payable, and the same shall be numbered and registered by the auditor and indorsed by him as a lawful and valid claim against the city.

§ 93. DUTY IN REGARD TO ISSUING LICENSES. It shall be his duty, upon production to him of the treasurer's receipt, showing that the correct amount has been paid, to issue all licenses prescribed by ordinance or granted by the council, and he shall charge the treasurer with the amount of such receipts and preserve the same in his office.

§ 94. COMPENSATION PRESCRIBED BY ORDINANCE. He shall be paid such compensation as shall be prescribed by ordinance, which shall not be changed during his term of office.

§ 95. OFFICE MAY BE ABOLISHED. The office of auditor may at any time be abolished or restored by ordinance, and while abolished its duties shall be performed by the city clerk.

(*e*) *Treasurer.*

§ 96. ELECTION BY COUNCIL—TERM OF OFFICE. Each council shall, at its first regular meeting, or within one month thereafter, elect a city treasurer, who shall hold his office two years, and until his successor is elected and qualified.

§ 97. QUALIFICATIONS—SAME AS CLERK. His qualifications shall be the same as those of the city clerk.

§ 98. CUSTODIAN OF CITY'S MONEY—PAYING OUT.....He shall receive and safely keep all the money belonging to the city, and shall not pay the same out except upon warrants drawn and indorsed as required by law.

§ 99. ACCOUNT OF RECEIPTS AND EXPENDITURES. He shall keep a fair and accurate account of all the receipts and expenditures of the city, showing when, from whom, and to whom, and for what purposes, said money was received and paid out.

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§ 96. Election of city treasurer. Under act of 1869, the treasurer of the city of Paducah may be elected by the city council, without violating the constitutional provision requiring officers for cities to be elected. Paducah v. Cully, 9 Bush, 323.

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§ 100. DUTIES PRESCRIBED BY ORDINANCE. He shall perform such other duties as may be prescribed herein, or by ordinance.

§ 101. BOND—EXECUTION OF BEFORE ENTERING ON DUTIES. He shall not enter upon the discharge of the duties of his office until he shall have executed bond with sufficient security, to be approved by the common council.

§ 102. COMPENSATION PRESCRIBED BY ORDINANCE. He shall receive such compensation as shall be prescribed by ordinance, which shall not be changed during his term of office.

(*f*) *Marshal.*

§ 103. ELECTED BY VOTERS—TERM OF OFFICE. There shall be elected at the regular election in November, one thousand eight hundred and ninety-three, and every four years thereafter, by the qualified voters of the city, a city marshal, who shall hold bond his office four years, and until his successor is elected and qualified.

§ 104. QUALIFICATIONS. No person shall be eligible to the office of marshal who, at the time of his election, has not attained the age of twenty-four years, and who has not actually resided and been a qualified voter in said city two years next preceding his election.

§ 105. MARSHAL NOT ELIGIBLE FOR SUCCEEDING TERM. The city marshal shall not be eligible for the succeeding term, nor shall he serve as deputy marshal for the succeeeding term.

§ 106. DUTY TO WAIT UPON POLICE COURT—PEACE OFFICER. He shall wait upon the police court of the city as the sheriff is required to wait upon the circuit court of his county. He shall be a peace officer of the city and the Commonwealth, and the chief ministerial officer of the police court of the city.

§ 107. DUTY TO ATTEND POLICE COURT AND COUNCIL. It shall be the duty of the marshal to attend all sessions of the police court and of the common council and to preserve order, and to obey the lawful mandate of the court, council and mayor.

§ 108. POWER TO EXECUTE AND RETURN PROCESS. He shall have the power to execute and return all civil, penal and criminal process issuing from any of the courts, or by any officer of the Commonwealth, and his jurisdiction shall be co-extensive with his county, but he shall not be required to execute any process from any court except the police court of his city.

§ 109. DUTY TO EXECUTE PROCESS ISSUED BY CITY OFFICERS. He shall execute all process or notice issued by the city clerk, by the mayor, or by any board or committee authorized to issue same, or the clerk thereof.

§ 110. DUTIES PRESCRIBED BY ORDINANCE. He shall perform such other duties as may be prescribed herein or by ordinance.

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§ 102. Salary—Increase of duties. Obligation to increase salary not implied. Covington v. Mayberry, 9 Bush, 304.

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§ 111. OFFICE TO BE KEPT IN CONVENIENT PLACE. He shall keep an office in the city hall, or some other convenient place to be designated by the council and provided at the expense of the city, and he or one of his deputies shall be in the office during all business hours of the day.

§ 112. APPOINTMENT OF DEPUTIES—POWERS—LIABILITIES. He may, by writing, signed by him and approved by the council and entered upon his journal, appoint as many deputies to assist him in the discharge of his duties as he may deem necessary, who shall have all the powers of the marshal, and for whose acts and omissions the marshal shall be responsible on his official bond.

§ 113. DISCHARGE OF DUTIES—WHEN TO ENTER UPON—BOND. He shall enter upon the discharge of the duties of his office on the first Monday in December next after his election, but not until he shall have executed bond with sufficient security, to be approved by the council.

§ 114. COMPENSATION FIXED BY ORDINANCE—FEES. The marshal shall receive such compensation in the way of salary, commissions and fees as shall be prescribed herein, or by ordinance, which shall not be changed during his term of office: *Provided, however,* For services other than for the city he shall receive the same fees and commissions allowed by law to sheriffs and constables for similar service.

§ 115. FEES FOR SERVING PROCESS FOR CITY—LIABILITY OF CITY. For service of process of the city, or in the name of the city, he shall receive the same fees and commissions allowed by law to sheriffs and constables for similar service, provided same shall be collected from the defendant; but in no case shall the city be liable for fees or commissions, unless same shall be collected and received by the city in money.

§ 116. ENGAGING IN BUSINESS INTERFERING WITH DUTIES PROHIBITED—SETTLEMENTS—ABOLISHMENT OF OFFICE. He shall not engage in any business or receive any process that interferes or is in any way incompatible with his duties to the city. He shall settle his accounts with the city quarterly of each year in the manner prescribed by ordinance, the same to be examined and certified by the prosecuting attorney and police judge and approved by the council: *Provided,* The common council may, by ordinance, abolish or restore the office of marshal, and, when so abolished, the duties herein imposed on the marshal shall be performed by such officer as the common council shall designate or appoint. (*Section as amended by act of March* 19, 1894.)

Judicial Department—Officers.

(*a*) *Police Judge.*

§ 117. JUDICIAL AUTHORITY VESTED IN POLICE JUDGE. The judicial authority, except as otherwise herein provided, shall be vested in a

§ 115. Fees of marshal. Ordinance providing that when prisoners worked out their fines the city should pay fees is in violation of this section and invalid. Wethington v. City, 21 R., 960.

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magistrate, who shall be styled the police judge. (*Vacancy, how filled,* sec. 60.)

§ 118. ELECTION BY VOTERS—TERM OF OFFICE. The police judge shall be elected by the qualified voters of the city for a term of four years, and shall enter upon the discharge of the duties of his office on the first Monday in December next after his election, and shall hold until his successor is elected and qualified. The police judge elected in November, one thousand eight hundred and ninety-three, shall not enter upon the discharge of the duties of his office until the first day of September, one thousand eight hundred and nienty-four, and hold until his successor is elected and qualified in one thousand eight hundred and ninety-seven.

§ 119. QUALIFICATIONS. No person shall be eligible to the office of police judge who, at the time of his election, is under twenty-four years of age, and who is not a qualified voter in said city, and who has not been an actual resident thereof two years next preceding his election.

§ 120. PRESIDING OFFICER OF POLICE COURT—PEACE OFFICER—POWERS. The police judge shall be the presiding officer of the police court of the city, and shall be a peace officer, with same power and authority to administer oaths, issue process, admit to bail, take recognizances, hold examining courts, preserve order, make arrests, and punish for contempt, conferred by law on justices of the peace. (*Special judge, see sec.* 60.)

§ 121. SALARY PAYABLE MONTHLY—INCREASE. He shall be paid an annual salary of six hundred dollars, payable monthly out of the city treasury; but the same may be increased by ordinance, but not during his term of office.

(*b*) *Police Court.*

§ 122. POLICE COURT ESTABLISHED—HELD DAILY. A police court is hereby established in each city of the third class, to be held daily, except Sundays, in a suitable room to be provided at the expense of the city.

§ 123. COURT OF RECORD—BOOKS AND BLANKS SUPPLIED BY CITY. Said court shall be a court of record, and all record-books and blanks necessary therefor shall be provided at the expense of the city.

§ 124. JURISDICTION—EXCLUSLVE—CONCURRENT. The police court shall have exclusive jurisdiction of all prosecutions for violations of

§ 121. **Salary of Police Judge.** Construction of. See Gorin v. City of Bowling Green, 30 R., 1160.

§ 122. **Altering or abolishing city court.** The Constitution of 1850 did not take from the Legislature the power to alter or abolish courts of towns in existence when it was adopted. Boyd v. Chambers, 78 Ky., 140.

§ 124. (1) **Jurisdiction—punishment.** Police courts have exclusive jurisdiction of all prosecutions for violations of ordinances and by-laws of the city. For a common law offense not punishable under any statute an ordinance may fix a less penalty than the common law. City of Owensboro v. Simms, 99 Ky., 49; 17 R., 1393. An ordinance may fix a higher, but can not fix a lower penalty for a statutory offense than does the statute. City of Owensboro v. Sparks, 99 Ky., 351; 18 R., 269; and see Taylor v. City of Owensboro, 98 Ky., 271; 17 R., 856; holding that an ordinance prescribing a less penalty than the statute is void. In Com. v. Hunter, 19 R., 1109, it is held that the cir-

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the ordinances or by-laws of the city occurring within the corporate limits of the city, and the offender may be summoned or arrested in the city or elsewhere. It shall also have the concurrent jurisdiction with the justices of the peace of all violations of the laws of the Commonwealth occurring within the corporate limits of the city, and the offender may be summoned or arrested in the city or elsewhere. It shall also have jurisdiction to try and adjudge forfeitures on all bails and recognizances entered into or deposited in prosecutions pending in said court. All prosecutions for violations of the ordinances or by-laws of the city occurring outside of the corporate limits of the city may be prosecuted in the name of the city, and for its benefit, in the police court, or in any court of competent jurisdiction.

§ 125. PROSECUTIONS BY WARRANT OR SUMMONS—FEES. All prosecutions in said court for violations of ordinances and by-laws shall be by warrant or summons in the name of the city, and all others in the name of the Commonwealth for the benefit of the city, and all fines or forfeitures recovered in said court shall, when collected, be paid into the treasury of the city for the use and benefit of the general revenue fund of the city, except thirty per cent of same, which shall be for the benefit of the prosecuting attorney of the police court.

§ 126. JUDGE, EX-OFFICIO CLERK—FEES—RECORDS—COPIES. The judge of the police court shall be the clerk of his own court, and shall tax as cost for his services the same fees allowed by law to justices of the peace in penal cases; but his costs shall be for the benefit of the city, and shall, when collected, be paid into the city treasury for the use and benefit of the general revenue fund of the city. He shall also be the custodian of the records of his court, and copies of same, duly attested by him, shall be competent evidence in all courts.

§ 127. EXAMINING COURT—FEES. The police court may act as an examining court, as justices of the peace or judge of the county court are or may be authorized to act, and when so acting the presiding judge of same shall be allowed the same fees to be paid in the same way, and they shall be in addition to the salary paid him by the city.

§ 128. PERSONS FINED OR SENTENCED TO BE SENT TO THE WORKHOUSE OR PUBLIC WORKS. In all cases prosecuted in the police court the defendant shall stand committed to the city prison until the fine and costs are paid or replevined, not to exceed, however, one day for each dollar of said fine and costs, and may by ordinance be required to work in the city workhouse or on the streets or alleys, or any public work of the city, until said fine and costs are satisfied, at the rate of one dollar per

cuit court has concurrent jurisdiction with the police court, of offenses committed in the city when the offense is punishable at common law or under a statute, although the city have an ordinance punishing the offense.

(2) Disorderly conduct is a distinct offense from a breach of the peace, and the penalty imposed for it may be fixed by ordinance in any sum. City v. Holly, 22 R., 358.

§ 128. **Imprisonment for costs.** Offenders against the penal by-laws and ordinance of a city may be imprisoned for the costs of a prosecution as well as for the fine, when such imprisonment is authorized by the city charter. Berry v. Brislan, 86 Ky., 5; 9 R., 223.

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day. Persons sentenced to imprisonment may be required to work in the same way during the period of imprisonment.

§ 129. PENALTIES WHICH MAY BE FIXED BY ORDINANCE. The common council may fix any penalty in their discretion for violations of ordinances and by-laws of the city that may be imposed without the intervention of a grand jury and the finding of an indictment, but in no case shall it be less than that imposed by statute for the same offense.

§ 130. JURY—WHEN DEMANDABLE. In all prosecutions in the police court, where the punishment may be imprisonment or where the fine may be over fifty dollars, the city or the defendant may demand a jury. In all such cases the jury shall consist of six persons.

§ 131. CITY NOT LIABLE FOR COSTS—EXCEPTION. In prosecutions and proceedings in the police court, and in appeals therefrom, the city shall not be liable for costs unless the same be collected in money and paid into the city treasury.

§ 132. APPEALS—TIME IN WHICH TAKEN. All appeals from the police court shall be taken within sixty days from the rendition of the judgment, and shall be directly to the circuit court of the county, and taken in the same way that appeals are taken from the quarterly courts to the circuit courts, as provided by law in penal cases. The defendant may appeal in any case where the judgment is for a fine of twenty-five dollars or over, or imprisonment. The city may appeal in any case where the punishment might have been a fine of twenty-five dollars or over, or imprisonment. No bond shall be required of the city on an appeal.

§ 133. CAPIASES AND EXECUTIONS—DUTY OF MARSHAL—PAYMENT INTO TREASURY. All capiases and executions from the police court, or on appeals therefrom, shall be directed to, and placed in the hands of, the city marshal, and all money collected on the same, including costs and commissions, shall be by the marshal immediately paid into the city treasury, and the treasurer's receipt taken for same, and upon the monthly settlement with the marshal and auditor shall charge the treasurer with the amount of said receipts, and the council shall make an order allowing the marshal or other officer anything he may be entitled to as costs or omissions.

(c) *Prosecuting Attorney.*

§ 134. ELECTION BY VOTERS—TERM OF OFFICE. There shall be elected at the regular election in November, one thousand eight hundred and ninety-three, and every four years thereafter, by the qualified voters of the city, a prosecuting attorney of the police court, who shall hold his office four years, and until his successor is elected and qualified.

§ 135. QUALIFICATIONS. No person shall be eligible to the office of prosecuting attorney of the police court who, at the time of his election, is not an actual resident of, and qualified voter in the city, and a licensed practicing lawyer for one year next before his election.

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Revenue and Taxation.

§ 136. WHEN TO ENTER ON DUTIES. He shall enter upon the discharge of the duties of his office on the first Monday in December next after his election.

§ 137. DUTY TO ATTEND POLICE COURT. It shall be his duty to attend all sessions of the police court, and to prosecute all criminal and penal cases in said court, whether for violations of the ordinances of the city or the laws of the State, and any appeals from same.

§ 138. COMPENSATION—PER CENT OF FINES AND FORFEITURES. He shall receive as his compensation thirty per cent of all fines and forfeitures recovered in said court, and which shall be collected and paid into the treasury of the city, the same to be ascertained from the monthly settlements of the marshal, and paid upon order of the council.

Revenue and Taxation.

(a) General Provisions.

§ 139. PROPERTY TAXED AS TO TENTH OF JANUARY—CORPORATE PROPERTY AND FRANCHISES. All real and personal estate within the city on

§ 139. (1) **Assessment by general council.** The Legislature may authorize the general council by ordinance to assess property in certain instances, and such assessment is not an unconstitutional attempt of a council to perform a judicial act. City of Owensboro v. Callaghan, 13 R., 418.

(2) **Bridge company.** For the purpose of collecting taxes a bridge over which trains pass is to be treated as part of a railroad. Henderson Bridge Co. v. Henderson, 90 Ky., 498; 12 R., 414. See important cases of Henderson Bridge Co. v. Alves, 28 R., 994; City of Covington v. Cov. & Cin. Bridge Co., 31 R., 630.

(3) Ordinance accepted by the company granting to it the use of a street for constructing approaches to a bridge with the proviso that the ordinance shall not be construed as waiving the right of the city to tax the bridge, constitutes such a contract as authorized the city to tax the bridge. 90 Ky., 498; 12 R., 414.

(4) **Collection of taxes by action.** The Legislature has the power to authorize the collection of taxes by action. City of Owensboro v. Callaghan, 13 R., 418; Greer v. Covington, 83 Ky., 410; 7 R., 419.

(5) **Franchise of water company** located at Frankfort is all liable to taxation in the city of Frankfort, and the State Board of Valuation had no authority to apportion the franchise between the city and a taxing district. Board of Council v. Stone, 22 R., 25.

(6) **License tax paid by distillers** to the city on their business as wholesale liquor merchants was not a discharge of taxes on whisky in their bonded warehouses, owned by them, as their business as wholesale liquor merchants was entirely distinct from that of manufacturing whisky. City of Frankfort v. Gaines, 88 Ky., 59; 10 R., 902.

(7) **Person and subject of taxation designated.** When a city is authorized "to levy a tax upon the taxpayers of the city, taxable under the revenue laws of the State," both the person and subject are designated, and the tax must be levied of the date and upon the persons and property prescribed by the State laws. Barret v. Henderson 4 Bush 255.

(8) **Property subject to taxation.** City may be constituted a taxing district and as such authorized to tax property in the district for local purposes, such as for schools and railroads, although it may not be subject to taxation for ordinary city purposes for the reason that it derives no benefit from the city government. Henderson Bridge Co. v. Henderson, 90 Ky., 498; 12 R., 414; and see notes to sec. 171, Con.

(9) **Taxation of real property.** Real property within a city must be taxed the same as other property without reference to any benefits or advantages it derives from the municipal government. Board of Council v. Scott, 19 R., 1068; 101 Ky., 615; Pence v. City of Frankfort, 19 R., 721; 101 Ky., 534; Hughes v. Carl, 106 Ky., 533; 21 R., 6.

(10) **Unknown or non-resident owners.** While whiskey in possession of distillers belonging to non-residents or unknown persons may, for State purposes, be assessed against the distillers, it can not be so assesed for city taxation when no authority is given the city by its charter to cause property to be listed by any other person than the owner. City of Frankfort v. Gaines, 88 Ky., 59; 10 R., 902.

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the tenth day of January in the year in which the assessment shall be made, and of all corporations having their chief office or place of business in the city on said date, and the franchises of same, shall be subject to assessment and taxation for all local and municipal purposes, unless exempt from taxation by the Constitution, and the same shall be assessed at its fair cash value, estimated at the price it would bring at a fair voluntary sale. Any franchise granted, in whole or in part, by a city, and exercised within said city, may be taxed by said city, notwithstanding the corporation owning or exercising same may have its chief office or place of business elsewhere. (*Con., secs.* 157-158, 180, 181. *Manufacturing establishments may be exempted five years, sec.* 43.)

§ 140. LIEN FOR TAXES FOR FIVE YEARS. The city shall have a lien for five years from the date of assessment on the property assessed, and on all other property, of each person or corporation, for all taxes due by them respectively to the city, which shall not be defeated by gift, devise, sale, alienation, or any means whatever, and nothing shall be exempt from levy and sale under a tax warrant.

§ 141. REAL AND PERSONAL ESTATE—WHAT INCLUDED IN. For the purpose of taxation real estate shall include land and the improvements thereon, and personal estate shall include every other species and character of property, that which is tangible and that which is intangible.

§ 142. HOLDER OF LEGAL AND EQUITABLE TITLE, AND PERSON IN POSSESSION—The holder of the legal title and the holder of the equitable title, and the claimant or bailee in possession of property of all kinds, on the tenth day of January, shall be liable for the taxes thereon, and it may be assessed to either, and shall be valued without regard to any conflicting title.

§ 143. EACH LOT SEPARATELY ASSESSED—GROUND AND IMPROVEMENTS VALUED SEPARATELY. In assessing real estate, each lot or parcel or ground shall be given in a separate item, together with the number of each on the map of the city, and the street and square where situated, and the number of feet front, and the depth, and how much frontage on each street where it bounds on more than one street. The value of the ground and the improvements shall, as to each lot, be stated separately.

§ 144. ASSESSMENT AS OF JANUARY TENTH—ASSESSOR TO THEN BEGIN WORK. All property shall be assessed and valued as of the tenth day of January of each year, and the assessor shall begin his work on that day, or as soon thereafter as practicable, and have the same completed by the tenth day of March following, and return the same to the common council.

§ 145. BOOKS AND SCHEDULES TO BE PROVIDED BY COUNCIL. The common council shall prescribe and provide for the use of the assessor, books and blank schedules with appropriate headings and columns.

§ 146. PROVISIONS FOR TAXATION FOR STATE PURPOSES ADOPTED. The provisions of the law for the assessment of property for taxation

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for State purposes are hereby adopted as part of this act, as far as same is applicable, except as herein otherwise provided.

§ 147. BOARD OF SUPERVISORS—APPOINTED BY MAYOR. During the month of March of each year the mayor shall, subject to the approval of the council, appoint three intelligent housekeepers residing in different wards of the city, who shall constitute the board of tax supervisors for said city.

§ 148. WHEN BOARD TO MEET—DUTIES. The said supervisors shall convene in the council hall on the first Monday in April in each year, and proceed to the discharge of their duties. The assessor shall meet with them and act as their clerk. The supervisors shall supervise all assessments, and see that all property is assessed at its fair cash value, taking into consideration the width, depth and location of lots, and the cost and condition of improvements and personal property.

§ 149. PROVISIONS GOVERNING COUNTY SUPERVISORS ADOPTED. The provisions of the law governing the county supervisors of tax are hereby adopted as part of this act as far as same is applicable, except as otherwise herein provided.

§ 150. SUPERVISORS TO RETURN TAX-BOOK—CHANGES BY COUNCIL. The supervisors having finished their work, shall return the tax-book to the city clerk, who shall submit same to the common council, and the council shall have power to make such changes in the assessment or valuation of any list as may be just and equitable; and any person aggrieved by any action of the assessor or supervisor may appeal to the common council.

§ 151. COUNCIL TO FIX RATE OF TAXATION AND HAVE CLERK TO COPY. After the tax-book shall have been amended or changed as above, the common council shall, by resolution, accept the tax-book, fix the rate of taxation for the year, and place it in the hands of the clerk to be copied, and the clerk shall write out the amount of taxes due on each list in such form as may be prescribed by ordinance.

§ 152. CLERK TO MAKE OUT BOOK AND DELIVER TO COLLECTOR. The clerk shall each year, after the completion of the work of the board of supervisors, make out, as hereinafter directed, or in such form as may be prescribed by ordinance, tax-book or receipts against such persons and property as may be assessed, and delivered them not later than the first day of June to the tax collector.

§ 153. CLERK TO TAKE RECEIPT—COLLECTOR CHARGED WITH GROSS AMOUNT OF TAXES. Before delivering the tax-book or tax-receipts to the city collector, the clerk shall take from the collector a receipt for the full or gross amount of taxes due said city, which receipt shall be presented to the common council and recorded in its minutes, and the collector shall be charged with the full or gross amount of said taxes.

§ 154. TAXES—WHEN DUE—TAX-BOOK OR RECEIPTS HAVE FORCE OF AN EXECUTION. All taxes shall be due and payable as soon as the tax-book or tax-receipts come to the hands of the collector, and said tax-book or receipts shall have in the hands of the collector all the effect and operation, to all intents and purposes, of an execution at law in

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favor of the city and against each and every tax-payer and his property for the payment and satisfaction of the amount of tax against each tax-payer respectively.

§ 155. POWER AND AUTHORITY OF TAX COLLECTOR. The collector, by virtue of said tax-book or tax-receipt, shall have like power and authority to levy upon the personal property of the respective tax-payers to satisfy the amount due from each taxpayer, respectively, that sheriffs of this Commonwealth have to levy executions in their hands upon personal property, and shall have like power given by law to sheriffs for the collection of taxes by garnishment.

§ 156. COLLECTOR MAY DISTRAIN GOODS AND CHATTELS. In the collection of taxes placed in his hands for collection, the collector may distrain the goods and chattels owned by or in the rightful possession of the person from whom the tax is due, notwithstanding the existence of any lien upon the same.

§ 157. COUNCIL MAY PROVIDE DISCOUNT FOR PROMPT PAYMENT. The common council may, by ordinance, make such discount for the prompt payment of taxes, and prescribe such penalties for the dilatory payment of taxes as, in its discretion, may be proper.

§ 158. COLLECTOR TO LIST OMITTED PROPERTY AND REPORT. It shall be the duty of the collector to list for taxation any property he may find has been omitted, and he shall report such lists to the city clerk, who shall indorse same on the tax-book and charge the collector therewith, and the collector shall have the same power to collect said lists as if they had been originally listed by the assessor.

§ 159. STATEMENTS TO BE MADE BY COLLECTORS. It shall be the duty of the collector to make out a statement twice in each month of the total amount of money received by him as collector since his last report, giving the names and amounts paid by each tax-payer. This statement shall be sworn to by the collector, and, together with the total amount of money received by him, shall be immediately delivered of the treasurer of the city.

§ 160. DEPUTY COLLECTOR—APPOINTMENT OF. The collector may, by and with the consent of the common council, appoint a deputy collector, who shall have the same power and authority as the collector, and the collector shall be liable on his official bond for the acts of such deputy.

§ 161. ACTION TO RECOVER TAXES—DUTIES OF OFFICERS. On the first day of January in each year, after the assessment of the city taxes, the tax collector shall make out tax-bills against all persons or corporations owing taxes on real estate, with a description and location of the property assessed, and upon which taxes are due, and the amount thereof, which bills shall be certified by the city clerk as being true and correct lists, and he shall furnish said lists or bills to the city attorney, whose duty it shall be to bring, without delay, suits for the recovery thereof in the circuit court of the county.

§ 157. Penalty for failure to pay taxes may be imposed. Owensboro Water Co. v. City, 25 R., 434.

§ 158. Action to recover taxes—petition —practice. Board of Council v. Morgan, 33 R., 297.

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§ 162. LISTS OR BILLS PRIMA FACIE EVIDENCE OF REGULARITY. Said lists or bills, when certified by the city clerk, shall be *prima facie* evidence that the property was properly listed by the city assessor, that the ordinance levying the taxes was duly adopted, and that all the steps necessary to secure a lien on the property have been duly and properly taken, and that the person owing the taxes has no personal property in the city out of which said taxes could be made.

§ 163. PERSONAL JUDGMENT AND ENFORCEMENT OF LIEN. In these suits the city shall, unless there be cause to the contrary, ask for and obtain a personal judgment against the person assessed, as well as the enforcement of the lien for taxes hereinbefore given.

§ 164. ACTION—HOW CONDUCTED—JURISDICTION. The action herein authorized shall, in all respects, be conducted like suits upon liens arising upon contracts, and said courts shall have jurisdiction of all suits for the enforcement of the collection of taxes as herein provided.

§ 165. TAXES DUE FOR SEVERAL YEARS—INTEREST—JOINT OWNERS—COMBINING BILLS. The sums due for taxes for earlier and later years shall be included in the petition and judgment. All taxes shall bear interest at the rate of eight per centum per annum from the first of October of each year. When all the taxes due by the same owner, or set of joint owners, exclusive of interest, amount to less than twenty dollars, the city attorney may combine with other bills or sets of bills, also less than twenty dollars, having due regard to the nearness of location, in one action, so that the aggregate of the bills embraced in one suit may amount to fifty dollars or over.

§ 166. ACTION FOR TAXES DUE PRIOR TO 1893—PLEADING. Whenever taxes due for a year preceding the assessment of one thousand eight hundred and ninety-three are included in an action brought pursuant to the next preceding section or are set up by pleading in any action, the material facts making them a lien on the property to be subjected shall be stated in the petition or other pleading, and the court shall render judgment according to the justice of the case; and this rule shall also prevail in all actions which may be brought exclusively for the taxes of such former years; and such actions are hereby authorized upon all past due taxes on real estate.

§ 167. FISCAL YEAR. The fiscal year shall commence on the first day of June.

§ 168. ERROR IN ASSESSMENT DOES NOT INVALIDATE—UNPAID TAXES—OMITTED PROPERTY. No error or irregularity in the assessment of property shall invalidate the assessment or any proceeding under same. Where any property has not heretofore been assessed for taxation, or where same has been irregularly or improperly assessed, or where notice of the time and place of the meeting of the board of supervisors of tax has not heretofore been properly or regularly given, said city is authorized to pass an ordinance directing the assessment of such property and making correction in any assessment

§ 168. Error in assessment—does not invalidate it or render property not liable to taxation. Board of Council v. Farmers' Bank, 22 R., 1738.

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irregularly or improperly made, and giving notice of the place and time of the meeting of any board of tax supervisors, so that any tax-payer may appear before same. The object of this section is to insure the collection of any unpaid taxes, and for that purpose any of said cities may, if it deems it necessary, appoint a special board of tax supervisors, whose duty it shall be to assess for taxation any omitted property or to correct any improper or irregular assessments, or to hear any complaints as to the assessment or value of any property upon which the taxes have not been paid. When any property is assessed or any assessment corrected, or where any tax-payer has the opportunity of being heard for previous years, the tax rate and levies and liens for such years shall apply, and the provisions of this section shall not extend back for more than five years.

(*b*) *Assessor.*

§ 169. ELECTION BY COUNCIL—TERM OF OFFICE. Each council shall, at its first regular meeting, or within one month thereafter, elect a city assessor, who shall hold his office two years, and until his successor is elected and qualified.

§ 170. QUALIFICATIONS. No person shall be eligible to the office of assessor who, at the time of his election, has not attained the age of twenty-four years, and who has not actually resided in said city four years next preceding his election.

§ 171. DUTY TO MAKE AND RETURN ANNUAL LIST. It shall be the duty of the city assessor to make and return once a year, in such manner and at such time as may be prescribed by law or ordinance, a complete and correct list of all the taxable property and tithes in the city, and to perform such other duties as may be prescribed by ordinance.

§ 172. APPOINTMENT OF DEPUTIES—REMOVAL. He may, by writing signed by him, to be approved by the council and entered upon its journal, appoint as many deputies, to assist him in the discharge of his duties as he may deem necessary, who shall possess the same qualifications, and have all the powers of the assessor, and for whose acts and omissions the assessor shall be responsible. Said deputies shall be subject to removal by the assessor at his pleasure.

§ 173. OATH ADMINISTERED TO PERSON LISTING PROPERTY. The assessor and his deputies are authorized and required, in every case, under penalty of forfeiture of office, to administer the oath required to be taken by persons whose property is to be listed for taxation for State revenue purposes.

§ 174. OATH OF ASSESSOR AND DEPUTIES. The assessor and his deputies, before they enter upon the discharge of the duties of the office, shall, in addition to the oath prescribed herein for other officers, take the following oath: "I do swear that I will fix the value of all property to be listed by me at its fair cash value, estimated at the price it would bring at a fair voluntary sale, without favor or partiality; that I will diligently search and inquire so that no person shall be passed over, or fail to have an opportunity to give a list of

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his taxable property, and that I will truly report all persons who shall fail or refuse to list their taxable property after being called on by me for that purpose, or who has given in a false or fraudulent list, so help me God."

§ 175. DUTIES PRESCRIBED BY ORDINANCE. In addition to the duties prescribed herein, the assessor shall perform such other duties as may be prescribed by ordinance.

§ 176. COMPENSATION FIXED BY ORDINANCE. He shall be paid such compensation as may be prescribed by ordinance, which shall not be changed during his term of office.

(*c*) *Collector of Taxes.*

§ 177. ELECTION BY COUNCIL—TERM OF OFFICE. The council shall elect at their first regular meeting in April, in each year, a collector of taxes, whose duty it shall be to well and faithfully collect, account for, and pay over to the city treasurer, all taxes levied by the city, and who shall hold his office for one year, and until his successor shall be elected and quailfied.

§ 178. QUALIFICATION—RE-ELECTION. No one shall be eligible to the office of collector of taxes unless he be a male citizen of the city, at least twenty-one years of age, and a *bona fide* resident of said city; but no collector of taxes shall be eligible to re-appointment or re-election to the same office until he shall have made a settlement with the council of all his accounts, and paid over all money in his hands, and have obtained from said council a quietus.

§ 179. LEVY UPON AND SALE OF REAL PROPERTY—PURCHASE BY MAYOR. If there is no personal property out of which the collector can make the taxes, and the same are not paid within four months after he receives the tax-books for the collection, he may levy on any real estate in said city belonging to or listed to said delinquent tax-payer, and sell so much thereof for cash as will pay the taxes due, commissions and costs; but in this regard the laws of this Commonwealth governing the powers and duties of sheriffs in levying on and selling property under execution shall be applicable to the collector, and regulate his powers and action as to the order and manner of levying on property, the mode and time of advertising and place of sale; and it shall be the duty of the mayor of said city to bid therefor the taxes due, commissions and costs of sale; and when said sums are bid on said property, the same shall be struck off to him for benefit of the city, unless some one else offers to pay said amounts for a less quantity of land.

§ 180. REDEMPTION—LIMITATION—PERSONS UNDER DISABILITY—ACTION BY PURCHASER. The owner of the real estate so sold, his heirs, representatives or assigns, shall have the right to redeem the same from the purchaser thereof, at any time within two years from the day of sale, by paying to the purchaser the amount bid by him at said

§ 177. Collector of taxes—liability of sureties—effect of settlements and quietus. Delker v. City, 22 R., 1777.

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sale, with eight per cent per annum interest thereon from the day of sale: *Provided,* If the owner of said property is a minor, married woman or of unsound mind, and the same is not redeemed according to the above terms, and within the two years, by said owner or owners, or by some one for them, the purchaser, other than the city, may bring suit in equity in the circuit court in said county to have so much of said property so purchased sold as may be necessary to pay the said sum bid at collector's sale, with interest at ten per cent per annum and costs of suit, and for any other taxes appearing to be due and payable on said property at the rendition of judgment in said suit; and the plaintiff shall, before any judgment is rendered, give good security to the defendant, to be approved by the court, that he will pay off any and all taxes for which said property is adjudged to be sold, and produced to court and file in the cause proper and legal receipts for such taxes before any deed is made to the property sold; but no such suit against persons under disability shall be brought after five years shall have passed from the day of sale by the collector, and any such suit now pending, unless brought within said time, shall abate as to said claim or claims.

§ 181. LEVY EVIDENCED BY WRITING—FORM OF—SALE, RETURN AND SETTLEMENT BEFORE END OF FISCAL YEAR. In all cases when the collector shall levy on real estate, it shall be his duty to evidence his levy by writing, which in each case he shall make out upon a separate paper, and shall state therein to the following effect: "By virtue of the collector's tax-book for the year ——, placed in my hands for collection by the council, I have this day levied upon the following described real estate (here give a description of the property) as the property of A B, to satisfy the unpaid taxes of the said A B for the ————, in favor of the city, and the costs of selling the same." The collector, after selling real estate for taxes, shall return upon the same paper upon which his levy is written a description of the real estate sold, the time and place of sale, that he first advertised the same according to law, the name of the purchaser, and the amount paid by him for the property sold, all of which levy and return the collector shall return to the office of the clerk of the council, which shall be recorded or bound in a book kept for that purpose by the clerk, and the original return of the collector shall also be filed and preserved in his office; all sales, returns and settlements shall be made by the collector prior to the close of the fiscal year.

§ 182. CERTIFICATE TO BE GIVEN PURCHASER—SUFFICIENCY OF. The collector of taxes shall give to the purchaser of any property sold by him for taxes a certificate of purchase, containing a description of the land purchased by him, time of sale, and quantity sold, the price at which sold, the amount of taxes sold for, and the year or years such taxes were owing; and such certificate shall be sufficiently descriptive, if set out with such certainty that the property can be conveniently found, from an inspection of the map of the city; and if the property is not properly described in said map, then the description of the col-

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lector must be otherwise sufficient to enable the purchaser to find the property. All certificates of purchase shall be recorded in a book (or bound in a book), kept for the purpose, by the clerk of the council of said city as a public record. But the collector's returns of any such sales to the mayor for the use of the city shall be deemed his certificate of such sales and purchase by the city.

§ 183. CONVEYANCE AFTER TIME FOR REDEMPTION. If any real estate sold by the collector and purchased by any one, except the mayor of the city, and except that sold as the property of minors, married women or persons of unsound mind, is not redeemed within the time provided herein, it shall be the duty of the collector, or any one of his successors, to convey by deed said land to the purchaser, embodying a copy of said certificate of sale in his deed.

§ 184. REDEMPTION WITHIN YEAR—INTEREST—DEPOSIT WITH TREASURER—DEED TO PURCHASER. The person whose real estate may be sold by the collector to other persons than the mayor, his heirs or personal representatives may, at any time within one year from day of sale, redeem the same by paying, or tendering, in case acceptance of payment is refused, to the purchaser, or his representatives, the full amount for which the property was sold, with twenty per cent interest per annum thereon until paid or tendered. In case the purchaser refused to accept payment thereon, or in case the purchaser be a non-resident of the city, the owner may deposit the amount and interest with the treasurer of said city and take his receipt therefor, and shall at once file such receipt with the clerk of the council, which shall operate as a redemption of the property sold. If the property purchased shall not be redeemed as aforesaid within a year from the day of sale, then at the end of the year the purchaser shall be entitled to a deed for the property, and the collector who made the sale, or his successor in office, shall execute and acknowledge before the county court clerk a deed of conveyance to the purchaser, which shall pass all the title, legal or equitable, of the original owner to the purchaser.

§ 185. SALES OF REAL ESTATE AND CONVEYANCES BY COLLECTOR. All sales of real estate that shall be made under and by virtue of the power and authority of said collector, and all deeds of conveyance made by him in pursuance thereof, as provided in this act, shall be as valid to all intents and purposes as sales and conveyances of real estate by sheriffs under execution and purchasers of real estate at sales made by collectors under the provisions of this charter shall, to all intents and purposes, be protected to the same extent, and as completely, in their purchases and title thus acquired as purchasers under execution sales are protected by the laws of this Commonwealth.

§ 186. COLLECTOR TO RETURN BOOKS—AFTER TERM MAY COMPLETE LEVIES AND EXECUTE DEEDS. The collector shall return to the office of the clerk of the council the "collector's tax-book" at the end of his official term, which shall be preserved in his office as other public records, together with his written report, showing the delinquents who shall have failed to pay their taxes; and also all unfinished levies, if

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any, made by said collector under said tax-book, upon property remaining unsold, which written levies, made in every case in which the taxes have not been paid, shall be recorded by the clerk or bound in a book kept for that purpose by him, as aforesaid; and the collector, after his term of office expires, shall have the power, and shall go on and complete said levies, by a sale of property levied on, to satisfy the taxes remaining unpaid, and he or his successor shall consummate such sales by executing deeds to purchasers in accordance with the foregoing provisions; and the collector shall make the additional and further return to the council within six months after the expiration of his official trem, in every case of his sales of property, which sales it is declared his duty to make in all cases when the taxes are not paid, which last returns of the collector shall likewise be recorded by said clerk at the end of the previous returns, respectively, in the book to be kept by him for that purpose.

§ 187. DELINQUENT LIST—ALLOWANCE TO COLLECTOR. The collector, in all cases in which he shall be unable to find property while he has tax-books or tax-receipts in his hands upon which to levy to make the taxes, or any part thereof, to return the fact at the end of his official term, and if such return of "no property found" be true, then as to such uncollected taxes the collector, in his settlement with the council, shall receive a credit for the amount by delinquent tax-payers. The council, before giving the collector credit, or allowing his delinquent list, may question him on oath as to the truth of his return, or hear evidence of others concerning the same; and unless the council shall be satisfied that the taxes could not have been made by the collector by the exercise of reasonable diligence, the credit shall not be allowed.

§ 188. COLLECTOR'S LIABILITY ON BOND. In all cases of a failure or omission of the collector to collect all taxes shown upon his tax-books, or return his levies for the satisfaction thereof, and to return in substance "no property found" as to those who had no property, said collector and his sureties shall be liable upon his official bond to the city for the amount of such taxes.

§ 189. ACTION AGAINST DELINQUENTS—ATTACHMENT. After the collector shall make his return of "no property found" as to any unpaid taxes, it shall be lawful for the city to institute proceedings by petition, in any court having jurisdiction thereof, against such delinquent tax-payers for the satisfaction of such taxes, and subject by attachment and garnishment, without giving bond, any choses in action or legal or equitable rights or interest of the tax-payer in any property, under the same rules and regulations and like remedies given by the civil code of practice of Kentucky to indiciduals in cases upon the return of "no property found" upon an execution.

§ 190. COMPENSATION FIXED BY COUNCIL—NO COMMISSION WHERE CITY BUYS. The collector shall receive a salary or per centum, to be fixed by the council, to be paid out of the treasury, as may be prescribed by ordinance, for collecting and accounting for the taxes and public dues, twenty-five per cent of which shall be retained until the

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collector shall make his final settlement and be entitled to his quietus. No cost or commission shall be allowed the collector on any sale of property which may be purchased at a tax sale by the city.

Board of Public Works.

§ 191. COUNCIL TO ESTABLISH—QUALIFICATION OF MEMBERS. The common council of the cities of the third class may, by ordinance, establish a board of public works, to consist of three freehold electors of said city, and who have been *bona fide* residents of the city so establishing said board of public works for two years next before their appointment. Said ordinance shall require the mayor of said city to appoint said board of public works in one month from the passage of the ordinance creating said board, and no two of said members of the board of public works shall be selected from the same ward. When no board of public works has been established, the duties herein imposed shall be performed by the common council, and such other employes and agents as said common council may elect or designate.

§ 192. ENTRANCE ON DISCHARGE OF DUTIES—TERM OF OFFICE. The members of said board shall enter upon the discharge of the duties of their office as soon as appointed, and shall hold office four years, and until their successors are appointed and qualified.

§ 193. VACANCY—HOW FILLED. Any vacancy in said board shall be filled for the unexpired term in the same way the original appointments were made.

§ 194. COMPENSATION OF MEMBERS. The compensation of the members of said board shall be fixed by the common council prior to their appointment, and shall not be changed during their term of office.

§ 195. PRESIDING OFFICER—ABSENCE OF MAYOR. In the absence of the mayor, said board shall have the power to designate one of their number to act as chairman and presiding officer *pro tempore,* and he shall, while presiding, have the same power as the mayor would have if he were present and presiding.

§ 196. QUORUM FOR TRANSACTION OF BUSINESS. Two of said members with the mayor, or three of them without him, shall constitute a quorum for the transaction of business.

§ 197. MEETINGS OF BOARD—HOW OFTEN HELD. Said board shall hold at least one meeting each month, and as much oftener as the business intrusted to its care may require. Said meeting shall be held at stated times, and the mayor, or any two members of said board may at any time call a special meeting.

§ 198. RECORD—YEAS AND NAYS—PUBLICATION. Said board shall keep a correct and complete record of its proceedings, and upon the passage of every resolution or order of any kind the yeas and nays shall be called and entered upon the journal, and immediately after the adjournment of each meeting the proceedings shall be published

§ 191. Board of public works created by the council may be abolished at any time. Board of Council v. Brawner, 100 Ky., 166; 18 R., 684.

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in some newspaper published in the city, to be designated by the board at the beginning of the year.

§ 199. AUDITOR EX-OFFICIO CLERK OF BOARD. The auditor of the city shall *ex-officio* be the clerk of said board, and shall be the custodian of its records, and copies of same, attested by him as clerk of said board, shall be competent evidence in all courts.

§ 200. ELIGIBLITY TO MEMBERSIHP. No person shall be eligible to membership in said board who is related to the mayor or any member of the council within the third degree of consanguinity or affinity under the civil law.

§ 201. MEMBERS ENTITLED TO PARTICIPATE IN PROCEEDINGS OF COUNCIL. The members of the board shall have seats in the common council of the city, and be entitled to take part in its debates, proceedings and deliberations on all questions relating to matters under their charge, subject to such rules as the council may, from time to time, prescribe by ordinance, but without the right to vote.

§ 202. RIGHT TO EMPLOY HEADS OF DEPARTMENTS. Except as may be herein otherwise provided, the said board shall have the exclusive right to employ the chiefs and heads of departments: Firemen, workhouse, hospital, almshouse and city prison employes, engineers, clerks, superintendents, scavengers, and such other persons as it may be deemed necessary for the proper execution of its duties, and remove same at its pleasure, and fix their salaries and compensation; but the salaries of all such employes, except common laborers, shall be fixed within the limits prescribed by the common council. The said board shall not employ or contract with any person who is related to any member of said board, or to the mayor, or to any member of the common council within the third degree of consanguinity under the civil law.

§ 203. CONTROL OF PUBLIC WAYS, PLACES AND PROPERTY—IMPROVEMENTS AND EXPENDITURES. The board of public works shall have the exclusive power and control over the construction, supervision, cleaning, sprinkling, repairing, grading and improving of all streets, alleys, avenues, lanes, public cemeteries, parks, squares, fountains, wharves and landings, market-houses and places, bridges, sewers, drains, ditches, culverts, streams, canals and water-courses, sidewalks, curbing, and the lighting of all such public places as may be deemed necessary within the corporation; to fix and establish the grades of all streets, alleys, avenues and thoroughfares; they also have the power, supervision and control over the construction, repairing, cleaning, lighting and heating of all public buildings, and over all public improvements of the city. They shall have the exclusive power to make all improvements and expenditures, within the revenue limits allowed

§ 203. **Powers of water company.** The right of determining who is qualified to make the connection with the main pipes of the company is not with the company (which has been granted the privilege of laying its pipes in the streets in consideration that it would furnish water to the city and its inhabitants), but with the city. The city can not delegate this power. Franke v. Paducah Water Company Co., 88 Ky., 467; 11 R., 17.

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by the council, which shall cost less than five hundred dollars, but shall let all contracts over fifty dollars to the lowest responsible bidder after due advertisement. The said board shall have the exclusive power to organize and control the fire department, the workhouse, the hospital, the almshouse, the city prison, and such works as the city may own for supplying the city or the inhabitants thereof with water, light, heat or power.

§ 204. ESTIMATE OF EXPENDITURES FOR ENSUING YEAR. That the board of public works shall, on or before the day fixed in each and every year for the tax levy, prepare and submit to the council an itemized estimate of the amount of money necessary and advisable, in their opinion, to spend in the execution of the duties intrusted to them for the ensuing year, giving in detail the plans of construction and repairs, with estimates of expenditures and salaries, wages, etc., proposed by them, with the estimated cost of each improvement or salary, specifying for what department required; and it shall be the duty of the common council, in their annual levy of taxes, to make such levy as, in their judgment, shall be necessary and advisable; and the amount so levied shall be collected and placed to the credit of the board of public works, and shall not be used for any other purpose, but shall remain as a separate fund in the hands of the treasury.

§ 205. SUPPLIES AND MATERIAL—RECOMMENDATION TO COUNCIL—ADVERTISEMENT FOR BIDDERS. That when the said board shall deem it advisable to make a contract for the execution of any work, or purchase of any supplies or material for any matter under its charge, it shall cause to be made a careful estimate of the cost of such work or material. In all cases where the estimated cost of any expenditure exceeds five hundred dollars, the board shall transmit to the common council, with its recommendations, an ordinance authorizing the said expenditure, with an estimate of the cost. Upon the passage of such ordinance it shall be the duty of the board to advertise and let the contract to the lowest responsible bidder.

§ 206. CONTRACTS TO BE MADE IN BEHALF OF CITY. All contracts of the board shall be made in the name of the city, and shall be executed in behalf of the city by the mayor under the seal of the corporation, and attested by the city clerk, and filed with the records of the board. (*See, further, sec.* 7.)

§ 207. MEMBERS NOT TO CONTRACT EXCEPT BY AUTHORITY OF BOARD. That no member of the board, or other person, whether in the employ of the board or otherwise, shall have the power to create any liability on account of the board or fund under its control, except by express authority of the board conferred at a meeting duly and regularly convened.

§ 208. ADDITIONAL APPROPRIATIONS—REPORT TO COUNCIL. If, at any time, it shall appear, in the judgment of the board, that the levy made by the common council for the current or ensuing year, for the use of the department of public works, is insufficient for properly conducting the affairs of the city, and for the constructing of such im-

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provements and repairs as are committed to said board, and consistent with the health, comfort and convenience of the inhabitants of the city, they shall so report to the common council, furnishing at the same time an estimate of such deficiency, on receipt of which it shall be lawful for the said council, in their discretion, to make such additional appropriations, and proceed to make a special levy upon the taxable property of the city, but not to exceed the limit provided by this act.

§ 209. CONTRACTS—WHEN VOID—STATEMENT TO BE FILED BY CONTRACTOR. Any contract made in violation of the provisions of this act shall be void, and no money shall at any time be paid to any person claiming under a contract with the board of public works until such person shall have first filed with the board his statement in writing, and under oath, disclosing the names of all persons directly or indirectly interested in the contract, or the proceeds or the profits thereof, declaring that no person other than those named are interested, and that no person forbidden by this act has any interest in same.

§ 210. ALTERATIONS IN SPECIFICATIONS AND PLANS—TOTAL COST OF *Work.* When in the opinion of the board it shall become necessary in the prosecution of any work to make alterations or modifications in the specifications or plans of a contract, such alterations or modifications shall only be made by order of the board, and such order shall be of no effect until the price to be paid for same shall have been agreed upon in writing, and signed by the contractor, and approved by the board. The total cost of the work, with the addition of the price so agreed upon, shall not exceed the original estimate.

§ 211. EXTRA WORK—ALLOWANCE FOR. No contractor shall be allowed anything for extra work caused by an alteration or modification unless an order is made and an agreement signed as provided in the preceding section, nor shall he in any case be allowed more for such alteration or modification than the price fixed by such agreement.

§ 212. EMPLOYMENT OF ENGINEER—OFFICE—DUTIES. The board of public works shall employ a competent engineer, who shall be styled the city engineer. He shall keep an office in said city, and see that all public works and improvements are executed according to contract, plans and specifications, and certify to same.

§ 213. EXPENDITURES FOR PAUPERS—EMPLOYMENT OF PHYSICIAN. The board of public works shall have charge of all expenditures for paupers, and shall employ a competent physician for same, who shall keep an office in the city, and be known as the city physician.

Streets and Alleys.

§ 214. IMPROVEMENT—POWERS OF COUNCIL—SIDEWALK—LIEN ON ABUTTING LOTS. The common council shall have power to pass ordinances to require the improvement of streets and alleys, subject to the

§ 214. (1) Action to recover street, or for injury to it. Title and possession is in the public, and it alone can, by its representative in the city, maintain an action

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mode and manner herein designated, either by grading and paving, or by grading, paving and macadamizing, or graveling, guttering, curbing and paving, or planking of sidewalk, any portion thereof, not less in length than one block, or the whole of any street or alley now established, or which may be established, or by guttering, curbing, paving and grading any number of feet, not less than a block, upon either or both sides of any street where the same shall be necessary to complete such class of improvement on any square or street, or by grading, paving, curbing or guttering of one side of any street where the other side of such street has been improved theretofore, or the reconstruction or repairing of the sidewalks, by recurbing, reguttering or repaving on any or all streets at the cost of the owner or owners of the ground fronting such improvement; and the cost of such improvement to be apportioned according to the number of feet front each may own in front of said improvement; and a lien is hereby created on the said ground for the cost thereof; all of which improvements, when required to be made, the common council shall order done by the passage of an ordinance for that purpose, which shall fully declare and prescribe the kind and extent of improvement to be made. That the common council may require by ordinance the improvement of any street or alley simply by grading or graveling or macadamizing, or may require by ordinance the whole of any street to be improved by grading, graveling or macadamizing, guttering, curbing and paving or planking the sidewalk, the whole or any part not less than one block of any street. (*See, as to passage or ordinance, secs.* 44 *and* 55, *subsec.* 8.)

for recovery of possession or injury to a street. Cosby v. O. & R. Ry. Co., 10 Bush, 288. Board of Council v. Brislan, 31 R., 867.

(2) **Dedication of streets and alleys.** Evidence that an alley has been opened to the public so long that no one can be found who remembers that it has ever been closed; that the city officials have controlled it for many years, together with other circumstances, is sufficient to show a dedication. Bogard v. O'Brien, 14 R., 648.

(3) **Opening streets and alleys.** Though the trustees have the power to keep open the streets and alleys, they have not the right in the exercise of that power to enter upon the property of others. Dudley v. Trustees of Frankfort, 12 B. M., 610.

(4) **Railroad—use of street by.** The authorities of a city may grant the right of way to railroads through the streets of the city. Cosby v. O. & R. Ry. Co., 10 Bush, 288. A city can not grant to a railroad company the right to construct and operate a railway through its streets, unless expressly authorized by its charter or the charter of the company. Com. v. City of Frankfort, 92 Ky., 149; 13 R., 705. Where the grantee has the right to use the street as often as he pleases, and every time he usese it such use totally obstructs for the time, however short, the ordinary public travel, the obstruction is an unreasonable one, and the grant is unauthorized. Id.

(5) Railroad embankment in middle of street, made with consent of council, leaving sufficient passway on either side for vehicles and sidewalk, not such an appropriation as gave to adjacent lot-owners a cause of action against the railroad. Cosby v. O. & R. Ry. Co., 10 Bush, 288.

(6) Failure of railroad company to provide street crossings no cause of action in favor of private individuals, unless city authorities refuse to act. Id.

IMPROVEMENT OF STREETS.

(7) **Acceptance of work by council,** where there is no fraud, is conclusive that the work was performed according to contract. Henderson v. Lambert, 14 Bush, 24; Bogard v. O'Brien, 17 R., 648, also 29 R., 1236.

(8) Contracts for improving street. Contract made by commissioners appointed by the trustees to contract for grading and paving is binding upon the town without the seal of the corporation. Guffield v.

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§ 215. IMPROVEMENT OF PUBLIC WAY WHEN STATE IS OWNER OF PROPERTY. That where any public way, or other public improvement in any city of the third class in this Commonwealth, is or has heretofore been ordered or directed by ordinance of the common council of such city to be constructed, which, according to the provisions of the act for the government of that class of cities, may be lawfully constructed at the cost of the owners of the lots of ground adjacent to such improvement, or within the taxable limits thereof, defined as provided in such act, and any such real estate within such taxable limits is owned by the State of Kentucky, or is held in trust for the public use of the State, the proportionate part of the cost of making such public way or other public improvement shall be apportioned against the real estate of the State in like manner as against other lots of ground, within such taxable limits, and the apportionment warrant or statement thereof shall be certified by the city clerk of such city to the auditor of public accounts, who shall thereupon draw his warrant on the State Treasurer for the amount of such apportionment warrant or certified statement in favor of the person entitled to the amount thereof, and the State treasurer shall pay said warrant drawn by the auditor out of any money in the treasury not otherwise appropriated. (*This section is an act of March* 29, 1902.)

§ 216. CONTRACT FOR IMPROVEMENT—ADVERTISEMENT FOR PROPOSALS. Upon the passage of any ordinance requiring the improvement of streets or alleys, or parts thereof, it shall be the duty of the mayor to enter into a contract with any person or persons offering or agreeing to do the work required to be done by such ordinance, upon the best

Bowling Green, 6 B. M., 224; DeBoard v. Bowling Green, Id., 229.

(9) **Damage for raising or lowering grade.** Cases in which it was held that an action would not lie. Keasy v. Louisville, 4 Dana, 154; Wolfe v. C. & L. R. R., 15 B. M., 404; L. & F. R. R. v. Brown, 17 B. M., 763; N. & C. Bridge Co. v. Foot, 9 Bush, 264. See to contrary, Louisville v. Lou. Rolling Mill, 3 Bush, 416; City v. Winstead, 22 R., 828, and Con., sec. 242, and notes thereto.

(10) One who obtains permission of the city by ordinance to fill a depression in a street so as to cause the whole street to be of a designated level, and does the work properly, is not liable to an abutting lot-owner for damage done his property by the fill. Weir v. O. & N. R. R. Co., 14 R., 875.

(11) **Improvement of part of street.** Trustees of Bowling Green were authorized to direct the improvement of a street on the application of the owners of property thereon, but not a part of the street. Bowling Green v. Hobson, 3 B. M., 478.

(12) **Lien for paving streets.** One asserting a lien must show that all the provisions of the charter in regard to the steps that are to be taken before the work is let have been strictly complied with. Bogard v. O'Brien, 14 R., 648.

(13) **Part performance of work** can not be accepted by the council so as to make the owners of abutting lots liable for the work performed. Henderson v. Lambert, 14 Bush, 24.

(14) **Publication of ordinance—amendment.** When ordinance for the improvement of streets is published, as required by the charter, and the ordinance is afterward amended so as to require certain stone to be eight inches on top instead of six inches, the amendment is so immaterial that a new publication is not necessary. Bogard v. O'Brien, 14 R. 648,

(15) Advertisement of notice of bids—insertion one time in paper sufficient. Woodward v. Collet, 20 R., 1066.

(16) **Validity of ordinance for street improvement.** An ordinance that required the lot-owners to construct the improvements in front of their respective lots is not invalid. Board of Council v. Murray, 99 Ky., 423; 18 R., 279. (Terrell v. City of Paducah, 28 R., 1237.)

§ 216. **See notes** (14), (15) to sec. 215.

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and most advantageous terms; and to enable him to do this he shall advertise the letting of such work, in some newspaper published in said city, for at least ten days, for sealed proposals for the doing of said work, and report such contract, in writing, as he may be able to effect to the common council for its acceptance or rejection. All contracts thus made with the mayor and the person or persons proposing to do the work shall not be binding until ratified by the common council; and the common council shall require of such contractor or contractors bond, with good security, to be approved by the common council, conditioned for the faithful performance of said contract.

§ 217. WORK TO BE DONE UNDER SUPERVISION OF MAYOR OR ENGINEER. The work contracted to be done shall be performed under the supervision of the mayor and engineer, and subject to the acceptance of the common council; and it shall be the duty of the engineer to make out and report to the common council complete and accurate estimates and apportionments of the cost of said work and improvements against the owners of property liable to pay the same, designating each one's respective liability.

§ 218. LIABILITY OF PROPERTY-OWNERS—LIEN. When the common council shall have passed an ordinance requiring said improvements to be made, and when a contract in pursuance to such ordinance shall be executed and ratified as aforesaid, and the common council shall have received the report of the engineer estimating and apportioning the cost of the work, and, by order or resolution, shall have received said work as done according to contract, then the liability of the owners of the property chargeable with the cost of said work shall be fixed, and there shall be a lien on the property for same.

§ 219. ACTION TO ENFORCE LIEN—EVIDENCE—REDEMPTION. The liens given for the purpose named in the last four sections may be enforced by filing a petition in equity in favor of the contractor, or his assignee, against any or all the persons liable for the cost of said work, and it shall only be necessary for the plaintiff in the action to file a copy of the ordinance of the common council requiring the work to be done, a copy of the contract for doing the same, a copy of the engineer's report showing the respective liability of each person sued, a copy of the order or each resolution of the common council receiving the work as done according to the contract, which shall be, together with the corresponding allegations in the petition, *prima facie* evidence of the plaintiff's right of recovery, and in such cases the defendant shall not be allowed to make the defense that the work was not done according to contract, as against said plaintiff in the action; and it shall be lawful for the court hearing the case to adjudge a sale of so much of the lot or lots of each person as will pay his or her part of the cost,

§ 218. Action to enforce lien must be brought in five years. Waggoner v. Board of Council, 30 R., 847.

§ 219. Defense that grading was done so close to street line as to deprive owner of ground on which to construct sidewalk may be made in action to enforce lien. Petter v. Allen, 21 R., 1122.

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according to the estimate of the engineer against him or her; and for his cost of the suit, and the court confirming the sale made under such judgment shall direct that the property may be redeemed at any time within one year of the day of sale by the owner of lot or lots paying the amount for which the same may have been sold, and interest thereon at the rate of ten per centum per annum, together with all taxes and levies made upon such property which the purchaser may have paid or become liable subsequent to the sale thereof; and if not redeemed within the time specfied, the sale shall be final, and after the time of redemption shall have expired, the court shall cause a conveyance to be made to the purchaser by the commissioner. The plaintiff may have a personal judgment against the defendant liable to the cost of said work, and have execution thereon, but if the execution issue, then no sale of lot or lots shall be made by the commissioner until the execution shall be returned, and then for the satisfaction of such sum only as shall appear to be unsatisfied by the return on the execution.

§ 220. COST NOT TO EXCEED HALF VALUE OF PROPERTY—PROVISION FOR ASCERTAINING VALUE. The cost of any improvement to the owners of the property order to be made at the cost of owners of lots, shall in no case exceed one-half the value of the lot or lots in front of which said improvements shall be made; and for the purpose of ascertaining the value of lots in front of which the street is proposed to be improved, the common council shall, on motion of any owner of a lot who alleges that the proposed improvements will cost more than one-half the value of the lot, appoint one person, and the said owner shall name one person, and the two so selected shall choose a third person, and the three persons thus selected, after being sworn, shall value the lot or lots in front of which the improvement is proposed to be made, and the valuation shall be made before the improvement is made, and the property shall be valued in its unimproved state; and if the cost shall exceed one-half the value of the property, then the city shall pay to the contractors the excess over one-half the value of the property.

§ 221. OWNER EXEMPT FROM COSTS OF REPAIR—EXCEPT SIDEWALKS, CURBS AND GUTTERS. All the improvements of the streets ordered to be made at the expense of the property-owners shall, to the extent made, and when paid for, exempt said property-owners from any special liability thereafter for the cost of keeping said improvements in repair, except in cases of repairing or reconstructing sidewalks, curbs and gutters. The mayor shall have power and authority to notify owners of lots fronting the same to make repairs upon sidewalks, in any case where the cost of such repairs of sidewalks shall not exceed ten dollars, in front of any one owner's lot; and in case such owner shall not, within five days after he or she has notice of such sidewalk being out of repair, repair the same, the mayor is authorized to have the same done at the cost of the owner, which repairs, if not paid by

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the owner, shall be paid by the city, and shall be a lien upon the lot for the payment thereof, and the city shall have the same remedies for the collection thereof, with costs of suit, that are given in cases for improving streets to the contractor.

§ 222. INTERSECTIONS—COSTS OF TO BE PAID BY CITY. In all cases of the improvement of the streets and gutters, curbs and paving sidewalks, the improvement of the intersections thereof shall be paid by the city.

§ 223. POWER OF COUNCIL AS TO ORIGINAL CONSTRUCTION AND REPAIR. The common council shall have power to cause to be graded, cconstructed, reconstructed, paved, or otherwise improved and repaired, all streets, sidewalks, alleys and public ways, or parts thereof, within the city, of such material and in such manner and under such regulation as shall be provided by ordinance, and may, in their discretion, provide for the payment of the cost of name, or any part thereof, out of the city treasury: *Provided,* The ordinances and contracts for such work shall specify how the work shall be paid for.

§ 224. COURT MAY CORRECT MISTAKES OF ENGINEER OR COUNCIL. That on the trial in equity of any case relating to the improvement of any street, alley, sidewalk, or other public highway, or any part thereof, the court trying the case shall have the right to correct any mistake or error of the city engineer's in estimating and apportioning the cost of such improvement among lot-owners, or any mistake or error of the common council relating to such improvement, so as to do complete justice to all parties.

§ 225. PARTIAL IMPROVEMENT—POWER OF COUNCIL. That where any part of any street, alley, sidewalk, or other public highway, has been improved in any block, leaving a part unimproved, the common council is vested with power by ordinance to improve the unimproved parts of such block in such manner and with such martial as the common council may think proper.

Elections.

§ 226. GENERAL ELECTION AND REGISTRATION LAW APPLICABLE. All popular elections and registrations for same shall be held under the general election and registration laws of the State, and as herein provided.

§ 227. WHEN ELECTION TO BE HELD. All officers, elective by popular vote under this charter, shall be elected at the regular election in November, eighteen hundred and ninety-three, and therafter as their terms shall expire or their offices become vacant.

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§ 224. Construction of section—Correction of errors. Lindsey v. Brawner, 29 R., 1236.

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Schools.

§ 228. SYSTEM—BOARD OF EDUCATION—QUALIFICATION AND TERM OF OFFICE—MEETINGS—QUORUM. There shall be maintained a system of public schools, at which all the children residing in the city between the ages of six and twenty years may be taught at the public expense. Said schools shall be under the control of a board to be styled "The Board of Education," consisting of two trustees from each ward in the city, to be elected at the general November election in one thousand eight hundred and ninety-three, by the qualified voters of the city at large. The trustees so elected shall hold their offices one-half for two years and one-half for four years, as shall be determined by lot at the first regular meeting after the election. And at the general election, every two years thereafter, there shall be elected by the qualified voters of the city at large one trustee from each ward in the city at large one trustee from each ward in the city in which the term of his predecessor in office will then expire. Said trustees shall possess the same quailfications as are required for councilmen. Said board of education shall continue, and it is hereby declared, a body politic and corporate, under the name and style of board of education, with perpetual succession, and by that name may contract and be contracted with, sue and be sued, have and use a corporate seal, the same to renew or alter at pleasure; may purchase, receive, hold, lease, sell and dispose of real and personal estate for public school purposes. The control and management of the public schools of the city, and the property and funds thereunto belonging, shall be, and is hereby, vested in said board, subject to the provisions of this law. It shall have power to make by-laws and rules, not in conflict herewith, necessary for the discharge of its duties and the government of its proceedings. It shall meet once in each month, or oftener if necessary, and a majority elect of said board shall constitute a quorum for the transaction of business; and for the appropriation of money or the execution of a contract, the concurrence of two-thirds of the members elect of said board shall be indispensable, and the yeas and nays shall be entered of record. The meetings of said board shall be held in some public place, and a correct record of its proceedings shall be kept in a book provided for that purpose, which shall be a public record.

§ 229. BOARD OF EDUCATION DETERMINE QUALIFICATION OF MEMBERS—FILLING VACANCIES. Said board of education shall determine the qualification of its members. It shall have the power to fill, until the next general election, all vacancies in said board occasioned by death, removal or other cause.

§ 230. PROPERTY DEDICATED TO USE OF PUBLIC SCHOOLS. All property now used for public school purposes in the city, or which may at

§ 228. **School fund.** When the school board estimated the amount of money it would require and the council levied a tax to pay it the school board was not entitled to any surplus remaining after the expenses of board had been paid. Board of Education v. City, 21 R., 1650.

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any time be owned by the board of education, and all the funds or means that are now or may hereafter come under the control of the same are hereby forever dedicated to the use of public schools of the city, and the title to all property, real and personal, in the city, known and used as public school property, is hereby vested in said corporation.

§ 231. BOARD MAY ELECT OFFICERS—BY-LAWS—PURCHASE OR RENT PROPERTY. Said board of education shall have power to elect or appoint such officers as may be necessary for its own government, and to require covenant, with surety, from any or all officers for the faithful discharge of their duties; to make by-laws not in conflict with this charter, the Constitution or laws of this State, for the carrying out the duties of their office, and for the government of its own officers, schools, teachers, pupils and employes; to determine its own rules of proceedings, and to appoint superintendents, teachers and other officers and employes, and regulate and fix their terms, duties and compensation, and suspend or remove them, or any of them, for cause. Said board may purchase, build or rent any ground, building or buildings, necessary or convenient for the public school purposes, and may make or contract to that end; and any property so leased, purchased or otherwise occupied, may be reserved by terms, deed or lease to the public schools of the city, and if so reserved, shall not be liable for any debt of debts of the city not incurred for public school purposes. Said board may also receive and hold, for public school purposes, any gift or devise.

§ 232. SALE OF SCHOOL PROPERTY FOR RE-INVESTMENT. That said board of education shall have the power, two-thirds of the trustees in office concurring therein, to be evidenced upon the call of the yeas and nays, and recorded upon the journal of its proceedings, to sell and convey such of said school property for the purpose of re-investing all the net proceeds of the same in the purchase of other lots, and building thereon other school buildings. And said board of education shall have no power to divert or apply said fund, or any part of it, to any other purpose whatsoever than for the purchase of grounds and the buildings thereon, school buildings for public school purposes, and if it do so, the same shall be malfeasance in office.

§ 233. BOOKS — COURSE OF STUDY — EXAMINATIONS — GRADING SCHOOLS. Said board of education shall have the power to select textbooks for use in said school, and prescribe the course of study, and it shall also have power to hold examinations, determine the qualifications of its superintendent, principals, teachers, and issue certificates to same. It may establish high schools and fix the grade of public schools, and prescribe the rules by which pupils may pass from one grade to another, and from the graded school to the high school. It may also establish and maintain kindergartens and manual training schools in connection with the public school.

§ 234. ANNUAL STATEMENT OF CONDITION OF SCHOOLS. Said board shall, at the end of each scholastic year, prepare and cause to be pub-

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lished, a printed statement, showing the number of pupils in each school, with the general condition and educational progress made therein, the amount, character and condition of all funds and other property belonging to said schools, together with such information as may be proper or necessary for the benefit of said schools and the general public.

§ 235. BOARD TO REPORT ESTIMATED COST OF EXPENSES FOR SUCCEEDING YEAR. Said board shall, within thirty days prior to the time prescribed for the levy to be made in the charter of cities of the third class, approximately ascertain the amount of money necessary to be used to defray the expenses of maintaining the schools, improving or constructing buildings, etc., thereof, and any liquidation of the liabilities during the current fiscal year, and report the same, together with the estimated amount to be received from the common school fund of the State, interest on bonds, endowments, etc., to the auditor or clerk, who shall thereupon report the same to the general council, and said general council shall make the necessary levy, and collect the tax to provide suitable school buildings, and to defray the general expenses necessary for school purposes: *Provided,* That the levy for any one year shall not exceed fifty cents on each one hundred dollars of value of taxable property in the city as returned by the board of equalization. Said tax shall be paid to the board or authorized agent of same as fast as collected.

§ 236. BUILDINGS, TEACHERS AND EMPLOYES—SEPARATION OF WHITE AND COLORED CHILDREN. Said board of education shall provide and maintain, out of the funds levied or otherwise provided for the purpose, suitable buildings, teachers and other employes, sufficient for the education of all children of the city between six and twenty years of age, and shall provide separate buildings and schools for the education of white and black pupils; and no white child shall be allowed to attend any colored school, nor shall any colored child be allowed to attend any white school.

§ 237. TRUSTEES TO TAKE OATH AND EXECUTE BOND. The trustees shall, before entering upon the duties of their office, take the oath, or make affirmation, as prescribed by law.

§ 238. MEMBER OF BOARD NOT TO BE INTERESTED IN SCHOOL CONTRACT —NO SALARY. No member of the board of education shall be or become, directly or indirectly, interested in any contract, agreement or trade, touching the building of schoolhouses, repairing of school property, selection of text-books or other thing, or use his official position to secure the patronage of the teachers or employes of the schools. No member of the board of education shall receive any salary for his services as such.

§ 239. SCHOOL TO ELECT TREASURER—ACCOUNTS—PAYMENTS. Said board of education shall elect its own treasurer and fix bond of same, who shall keep a distinct account of all moneys belonging unto, or which may hereafter be dedicated to, or set apart for public schools,

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and shall only pay out or deliver any of said funds upon the warrant of the board of education, countersigned by the secretary and approved by the president of the board of education, and shall perform such other duties as may be prescribed by said board.

§ 240. BOARD TO HAVE EXCLUSIVE CONTROL OF SCHOOL FUNDS. Said board of education shall have exclusive control of all school funds of the city, from whatever source the same may be derived, including the *pro rata* of the city from the common school fund of the State. It shall have the right to receive all fines, forfeitures and taxes that may inure to the benefit of the public schools of the city. It shall have power to expend all moneys in the interest of the public schools of the city, and the warrants of the board of education, countersigned by the secretary and approved by the president of the board, shall be honored by the treasurer to the amount of the school funds in his custody.

§ 241. PRIOR INDEBTEDNESS AND CONTRACTS PROVIDED FOR. All indebtedness, bonded or otherwise, and all liabilities and contracts of the school board existing at the time this law takes effect, and all taxes, funds, sinking funds or other resources that have been pledged or set apart for the payment of the principal and interest thereof, shall continue unimpaired and remain of the same force and effect as though the same had been authorized and contracted by the express provision of this law.

§ 242. APPROPRIATIONS—DRAWING FROM FUNDS. No money shall be drawn from the funds, unless the same shall have been appropriated by order of the board of education, and no appropriation of money shall be made to be paid out of said school funds, unless the money shall actually be in the treasury to meet the draft.

§ 243. PRESIDENT AND SECRETARY—ELECTION—SALARY OF SECRETARY. Said board of education shall elect from its own number a president, for the term of two years, and may prescribe who shall preside in his absence, and make all necessary rules, prescribing the duties of the presiding officer and the government of itself; and said board shall also elect a secretary, at a salary not exceeding one hundred dollars per annum, whose duty it shall be to keep a record of the proceedings of all regular and special meetings, countersign all warrants and contracts, and whose term of office shall be two years.

§ 244. PUBLIC LIBRARY—PURCHASE OF BOOKS FOR INDIGENT CHILDREN AND OTHER EXPENDITURES. Said board of education shall have the power and right to establish and maintain a public school library out of any funds coming into its hands, except that received by taxation, or from the State funds, and also to purchase text-books for indigent children of the city, and to otherwise expend such moneys in the interest of the public schools. Said board of education shall have the power and right to make rules and regulations governing said school library. (*See, further, as to public library, sec.* 2480*a*, *Ky. Stats.*)

§ 245. CHILDREN OUT OF CITY ADMITTED TO SCHOOL PRIVILEGES—TUITION. Said board shall have power to admit to said school pupils

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from beyond the limits of the city, and may collect therefrom tuition fees for the benefit of the schools of the city, making deduction of taxes for school purposes on property in said city paid by parents of said children; and no children or persons residing beyond said limits shall be admitted as pupils in any of said schools except on payment of such tuition fees as said board may require.

§ 246. PRIOR LEGISLATION CONCERNING SCHOOLS. No action of this chapter shall be so construed as to repeal in any wise any special act or amendment thereto heretofore passed for any city of the third class for the establishment, maintaining and carrying on a high school.

Public Library.

[*See, further, as to public libraries for second and third class cities, sec. 3210b, Ky. Stats.*]

§ 247. 1. MUNICIPAL AUTHORITIES MAY ESTABLISH PUBLIC LIBRARY —TAX. The municipal authorities of any city or town of the third, fourth, fifth, or sixth class shall have power to establish and maintain a public library and reading-room or rooms for the use and benefit of the inhabitants of such city or town, and for that purpose may levy and collect annually a tax not to exceed ten cents on each one hundred dollars of the assessed value of property therein subject to taxation.

2. BOARD OF DIRECTORS TO BE APPOINTED. When it has been determined to establish and maintain a public library and reading-room or rooms for any city or town as above provided, the mayor of such city or chairman of the board of trustees shall, with the approval of the council or board of trustees, as the case may be, proceed to appoint a board of five directors for the same, chosen from residents of the city with reference to their fitness for such office.

3. DIRECTORS DIVIDED INTO CLASSES—TERM—VACANCIES. Such directors shall hold their office for four years from the first day of July in the year of appointment, and until their successors are appointed; but upon their first appointment they shall divide themselves at their first meeting by lot into four classes; two directors for four years, one for three years, one for two years, one for one year, and their terms shall expire accordingly. Vacancies shall be filled in like manner as original appointments. The members of this board shall serve without compensation.

4. DIRECTORS MAY MAKE RULES—MEETING OF. Said directors shall, immediately after their first appointment, and annually thereafter in the month of July, meet and organize, by the election of one of their number president, and by the election of a secretary and such other officers as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library and the reading-room as they may deem expedient, not inconsistent herewith.

5. POWERS AND DUTIES OF DIRECTORS—LIBRARY FUND. All revenue and money paid, collected or received by authority of any provision

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herein contained, whether by taxation, gift, devise, bequest or otherwise, shall belong to and be known and designated as the "Library Fund," and shall be paid into the proper city treasury, and there kept separate and apart from other funds, and be drawn therefrom as hereinafter provided, but only to be used and applied to the purposes herein authorized. This board of directors shall have exclusive control of the expenditure of all moneys collected and placed to the credit of said library fund, the charge of the construction of any building erected, and the supervision, care and custody of the grounds, rooms or buildings, constructed, leased or set apart for that purpose. This board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate building or buildings for the use of said library; to appoint a suitable librarian and necessary assistants, and fix their compensation, and at their discretion to remove such appointees. They shall in general carry out the spirit and intent of this act in establishing and maintaining a public library and reading-room or rooms. Said board may order the withdrawal and payment, upon properly authenticated vouchers, duly certified by the president and secretary, of money from the library fund, for any liability or expenditure herein authorized. Said board may purchase necessary books, journals, publications and other personal property in accordance with their judgment of what is best; but all such expenditures are limited to the amount to the credit of the library fund in each fiscal year.

6. LIBRARY TO BE FREE—CONTRACTS WITH COUNTY AND CITY AUTHORITIES FOR TRAVELING LIBRARY. Every library and reading-room established under this act shall be forever free to the use of the inhabitants of the city where located, always subject to such reasonable rules and regulations as the library board in their discretion may adopt, in order to render the use of said library and reading-room or rooms beneficial to the greatest number, and said board may exclude from such library and reading-room or rooms all persons who shall willfully violate any of its rules: *Provided*, That the board of directors of such library and reading-room or rooms may under such rules and regulations as may be deemed by them necessary, and upon such terms and conditions as may be agreed upon, allow non-residents of the city, in which the library or reading-rooms are situated, to use the books therein, and may exchange such books with any other public library, either permanently or temporarily, and may send out traveling libraries in their own or adjoining counties; and any such board may contract with the members of the fiscal court of the county in which the library is situated or with the members of the fiscal court of any adjacent county or with individuals or associations, or with the members of the fiscal court, school board trustees or common council of any adjacent county, city, town, or school district, to loan the books of said library singly or in traveling libraries to the residents of such county, city, town, or school district, upon the terms and as may be agreed upon in such contract; and the fiscal court, council, board of school trustees of any such county, city, town or school district, who

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are hereby empowered to make contracts for such purposes, and to pay the consideration agreed upon therein, to the board of directors of such library and reading-room or rooms, out of the county or city treasury, upon the rendering of proper accounts and vouchers therefor.

7. REPORTS BY DIRECTORS. Said board shall, on or before the first Monday in July of each year, make an annual report to the umincipal authorities of their city, giving the condition of their trust, with full statements of all property, and money received, whence derived, how used and expended; the number of books, journals, and other publications on hand; the number added by gift, purchase, or otherwise during the year; the number lost or missing, the number and character of those loaned, the number of visitors attending, and such other statistics, information and suggestions as may be of general interest. A financial report showing all receipts and disbursements of money shall also be made by the secretary of the board, duly verified by affidavit.

8. ORDINANCES FOR PROTECTION OF AND IN AID OF MAY BE PASSED. Any city or town wherein a public library or reading-room or rooms may be established shall have power to pass ordinances for the protection of the same, and all property thereto belonging, and for imposing penalties for the punishment of persons committing injury to such library or reading-room or rooms or the property or books thereof, or for failure to retun any book or other property belonging thereto. They shall also have power, by ordinance or resolution duly passed for such purpose to grant, donate, or authorize the use of either in whole or in part, any land square or real estate belonging to such city or town, or dedicated to public use therein, for the purpose of erecting and maintaining a building to be used for a public library and reading-room as herein authorized.

9. DONATIONS TO. Any person desiring to make donations of money, personal property, or real estate for the benefit of such library shall have the right to vest the title of the property so donated in the board of directors created under this act, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise, or bequest of such property, and as to such property the said board shall be held and considered to be special trustees. (*This section is an act of March* 21, 1902; *the numbers of the sub-sections are the numbers of the act.*)

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ORDINANCES AND RESOLUTIONS

CHAPTER 1—ANIMALS.

ARTICLE 1.

Fast Driving, Hitching, Feeding of—In Streets.

§ 1. Any person or persons who shall ride, lead or drive any horse or animal in any street or alley in a gait faster than a trot or pace at a speed faster than six miles an hour, shall for each offense be fined not less than $2 nor more than $5. (May 17, 1898.)

§ 2. That any person or persons who shall hitch or tie a horse, mule or other animal to a tree or any other object within the corporate limits of the city, except it be in front of his place of business or residence shall upon conviction be fined not less than $2 nor more than $5. (May 17, 1898.)

§ 3. That any person or persons who shall feed a horse, mule or other animal upon any street or alley within the city limits, either from the ground or from a wagon or other vehicle shall be fined in any sum not less than $2 nor more than $5. (May 17, 1898.)

ARTICLE 2.

ANIMALS OF THE DOG KIND.

§ 1. That it shall hereafter be the duty of the owner of each dog kept within the city limits to register and list such dog or dogs with city clerk, in a book to be kept for that purpose, on or before the first day of June in each year, and to pay the license tax thereon; and it shall be the duty of the city clerk to provide and furnish such owner with a small metalic tag, which the said owner shall attach to, or around the neck of each dog, upon the production of the receipt of the treasurer of the sinking fund commissioners showing that said license tax had been paid. (April 24, 1902, as amended May 28, 1912.)

§ 2. It shall be the duty of the city marshal, not later than the first day of July in each year to ascertain and locate all dogs within the city upon which said license tax has not been paid and tag attached, and verbally notify the owner that unless said license tax is paid, and said tag attached, within ten days, that said dog will be taken to a suitable place and killed by the city officers; and if the said owner fails or refuses to pay said license tax and attach said tag, it shall be the duty of the city marshal as soon thereafter as practicable to take said dog or dogs to such place and kill them. (April 24, 1902.)

§ 3. If the owner of any dog or dogs shall fail or refuse to pay said license tax and attach the tag after notice, as provided in the foregoing sections, they shall be liable to a fine of not less than one ($1) dollar, nor more than five ($5) dollars, for each dog so kept, recoverable in

(2-3) **Animals.** For construction of ordinances requiring tags, etc. See Com. v. Markham, 7 Bush, 486. Falmouth v. Watson, 5 Bush, 660.

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the police court of the city of Frankfort, and each day he so fails or refuses shall be deemed a separate offense.

§ 4. That the owner or controller of any bitch dog, who shall permit her, when proud or rutting, to run at large within the city, shall for each offense, be subject to a fine of ten dollars. Each and every day such bitch may be permitted to so run at large when proud shall be held a separate offense. The owner of such bitch shall be promptly notified by the marshal or some policeman and if he fail to confine her immediately, or if no owner can be found, such bitch shall be killed by the marshal or policeman. (Sept. 25, 1894.)

§ 5. That any person who shall within the limits of the city, keep or harbor any animal of the dog kind, that shall bite or fiercely attack any person whatever, such animal, at the time of such biting or attack, not being within the inclosure of its owner or controller such person so harboring or keeping such animal, shall on conviction, be fined not exceeding $100 for each offense provided, however, that nothing herein shall apply to any case wherein the person bit or attacked shall break or enter without permission, any inclosure, and shall be pursued therefrom by such dog. (Sept. 25, 1894.)

§ 6. That any person who shall permit on his premises within the city, any loud and frequent or continued barking or yelping, of any animal of the dog kind, so as to annoy and disturb any neighbors, shall for every twelve hours such annoyance shall continue after one day's notice from the marshal be liable to a fine of not exceeding $10. (Sept. 25, 1894.)

§ 7. At such seasons of the year, and during such periods of time as there may be danger from hydrophibia, or the public safety may require it, the mayor shall issue his proclamation, requiring the owners of all dogs to keep them within the limits of their own inclosure, or if allowed to go upon the street, to have them securely muzzled. And any person suffering his dog to go upon the streets ,within the city, without being securely muzzled, after the issual of the mayor's proclamation as aforesaid, and within the time specified therein, shall be fined not less than $5 nor more than $50; and if such dog is found at large a second time without muzzle, within said period, it shall be the duty of the police judge in addition to adjudging the fine as aforesaid, to order the city marshal or policeman to kill such dog. Any dog found running at large without being so muzzled, during the time covered by the mayor's proclamation who's owner is not known, shall be killed by the marshal or any policeman. (Sept. 25, 1894.)

ARTICLE 3.

ANIMALS—IMPOUNDING OF.

Duties of Marshal.

§ 1. The mayor is hereby authorized to procure and establish not exceeding four suitable places in the city for the purpose of impound-

(5) Similar ordinance held valid. Commonwealth v. Steffe, 7 Bush, 161.

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ing certain animals found running at large within the city, and the duties of pound keeper to the taking up, detention and disposition of animals found running at large in the city shall be performed by the city marshal and policemen. (April 10, 1894.)

§ 2. That hereafter it shall be unlawful for any animal of the horse, cattle, sheep, swine, geese, or goat kind to be found running at large upon any of the streets, alleys or uninclosed lots of the city, and it shall be the duty of the city marshal and all policemen to take up and impound any of the above-named animals found going at large within the limits of the city, and to give immediate notice in writing to the owner or owners thereof to pay the cost of taking up and keeping same and to remove said animal or animals within five (5) days from the service of such notice, if the owner or owners of any animal or animals impounded shall not within five days after such notice call for and pay the charges for taking up and keeping such animal or animals; or if the owner or owners of any animal or animals impounded is unknown or cannot by diligent inquiry be ascertained within five days after the same have been impounded the marshal or officer so taking up such animal or animals shall make out a list of a full and accurate description thereof and advertise the same for sale at a time and place to be designated for the period of five days in one of the newspapers published in the city or by written or printed notices posted at not less than ten public places in the city, when if the said animal or animals are not claimed and the cost of taking up and keeping same paid he shall proceed to sell same at public outcry to the highest bidder, the marshal or office making such sale after deducting therefrom the charges for taking up, keeping, advertising and selling such animal or animals shall pay over the balance of proceeds of such sale to the treasurer. (April 10, 1896.)

§ 3. For every animal so impounded the owners shall pay to the marshal or officer taking up or impounding same the following charges, for each horse, swine or cattle impounded the sum of one ($1) dollar, for each goat or sheep impounded the sum of fifty cents, for each goose ten cents, for keeping and feeding each horse swine or head of cattle per day thirty cents, for keeping or feeding each goat or sheep per day ten cents, for feeding each goose per day five cents, and no animal shall be released until all charges for taking up, keeping and feeding the same shall have been paid. (April 10, 1894.)

§ 4. The marshal shall keep a record of all animals impounded, with description thereof together with the amount of charges collected

(2) In Chapman v. City of Mayfield, it was held that sec. 3490 Ky. Statutes, subsecs. 31-33, a city of the fourth class is authorized to pass an ordinance prohibiting the running at large of stock and imposing a fine for its violation, 31 Ky. Law Rep., 982. Sec. 55, sub-sec. 28 Charter, gives cities of third class power to control animals running at large.

An ordinance prohibiting animals running at large applies to person residing beyond city limits, McKee v. McKee, 47 Ky., (8 B. Mon.), 433.

An ordinance authorizing city marshal to sell hogs found running at large, without notice to owner is void. Warden v. Mount, 78 Ky., 86.

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date impounded, length of time kept, expenses attending such keeping, name of owner, final disposition if sold, when to whom and amount received, and he shall make monthly report thereof to the common council, giving in detail all the facts shown upon the record of business transacted during the previous month. (April 10, 1894.)

§ 5. That any person who shall interfere in any manner with the marshal or any policeman or in any way molest or hinder them in the discharge of their duty as such pond keepers, or who shall release or attempt to release any animal by him or them impounded or in his or their custody, shall be deemed guilty of an offense and on conviction thereof shall be fined not less than five ($5) dollars nor more than twenty-five ($25) dollars for each offense. (April 10, 1894.)

§ 6. That nothing in this ordinance shall be constructed so as to prohibit or interfere with the driving of any of the above-named animals through the streets to or from pasture or for other lawful purposes when accompanied by the owner, his agent or servant. It shall be unlawful for the owners or controllers of horses, mules, cattle, swine or goats to permit the same to run at large unattended upon any of the streets, alleys or uninclosed, lots of the city. (Amendment Aug. 3, 1897.)

§ 7. Any person or persons the owner or controllers of any horse, mule, cattle, swine or goat kind, who shall knowingly and willfully permit any such animal to run at large unattended and not in the charge or custody of some discreet person, upon any of the streets, alleys or uninclosed lots of the city, shall, for each offense be fined not less than $5 nor more than $15. (Amendment Aug. 3, 1897.)

CHAPTER 2—APPROPRIATIONS AND CLAIMS.

ARTICLE 1.

Associated Charities.

§ 1. Councilman Simpson made oral report of Charity Committee, and recommended that an appropriation of $40 a month be made to the Associated Charities. Said appropriation to begin with the month of April. Councilman Rosson moved the adoption of committee's recommendation which was carried. (Resolution—April 6, 1911.)

King's Daughters.

§ 2. Resolved by the Board of Councilmen of the city of Frankfort that the allowance of $25 per month to the King's Daughters Hospital be increased to $50 per month, which resolution passed by the following vote: (Resolution—Sept. 25, 1905.)

Library.

§ 3. That there shall be paid out of the General Revenues, the sum of three hundred dollars per annum, payment to be made monthly of $25 for the support of the Frankfort Public Library, under the man-

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agement of the Woman's Club of Frankfort, payment to be made to the treasurer of Library Committee of said club. (Resolution—Oct. 28, 1912.)

Mayor.

§ 4. That there be, and is hereby appropriated annually, out of any funds of the treasury not otherwise appropriated the sum of $300, or so much thereof as may be necessary for the use of the mayor of this city in defraying such necessary contingent expenses as are incident to the office of mayor of the city of Frankfort, said fund so appropriated shall be known as the contingent fund for use of the mayor.

Sub-Sec. 1. Whenever it shall be necessary in the judgment of the mayor to meet an expense such as is indicated in the first paragraph of this resolution he shall issue an order to the city clerk for the amount required and the clerk shall thereupon issue a warrant in favor of the mayor for the amount indicated in said order. (Resolution—March 27, 1911.)

Poor People.

§ 5. That for the purpose of supplying drugs and medicines for the deserving poor of the city, there be and is hereby appropriated to the city physician annually out of any money in the treasury not otherwise appropriated, the sum of one hundred dollars; said sum to be expended by the city physician in purchasing such drugs and medicines as he deems suitable. And it shall be the duty of the city physician to establish a despensary of drugs and medicines, at his office, and to furnish and dispense therefrom, all drugs and medicines required by the deserving poor of the city. And the city clerk is hereby directed to draw his warrant or warrants on the city treasurer in favor of the city physician from time to time as he may need drugs and medicines not however to exceed the sum of one hundred dollars in any one year. (Feb. 26, 1895.)

ARTICLE 2.

Accounts, Reference to Committee.

§ 1. That no account or claim against the Board of Councilmen of the city of Frankfort shall be ordered paid until the same has been considered by the proper committee and reported by the committee or a majority thereof to the common council for its action.

§ 2. The chairman of each committee or the member designated by the chairman to act in his absence shall at least two days before the first regular monthly meeting of the common council call a meeting of his committee to act upon accounts and claims proper cognizable before said committee. (April, 1894.)

Sub-Sec. 1. It is to be doubted if an appropriation can be legally made by resolution. See Sec. 55, city charter (3290, Kentucky Statutes) and Louisville vs. Parsons, 150 Ky., 421.

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§ 3. That all accounts and claims to be presented to the common council shall be filed with the city clerk on or before the fifth day of each month; and the said clerk is hereby ordered and directed to deliver the same to the Finance Committee, whose duty it shall be to examine and pass on same and report to the common council at its first regular meeting thereafter. (Feb. 14, 1899.)

Supplies—How Purchased.

§ 4. 1st. That from and after June 1, 1912, all supplies for the city, consisting of groceries, drugs, meats, clothing, dry goods, etc., including any material for the use of the city shall be purchased for the city by the chairman of the various committees, or in the absence of the chairman by some member of the committee or the mayor.

2nd. Said supplies shall be bought as follows: the chairman of the committee, or the mayor, shall give to the clerk of the city a written order for the amount of the supplies stating to whom the clerk shall issue the order, for the amount and designating where said supplies shall be bought.

3d. That the city shall not be liable for any goods purchased without an order as specified above, and no account will be allowed unless accompanied by proper order.

CHAPTER 3—BOUNDARY AND SUBDIVISIONS.

ARTICLE 1.

City Limits Defined.

§ 1. That the corporate limits of the city of Frankfort be, and the same are hereby, extended and defined by metes and bounds as follows, to-wit: Beginning at "A," the point of land above Benson creek at its month; thence across the river south sixty-three and one-fourth east twenty-five poles to the east bank of the river at low water mark, at "One;" thence down the east bank at low water mark north

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Art. 2. Claims against a third class city need not be presented to common council before suit brought. City of Bowling Green v. Duncan, 122 Ky., 244, 28 R., 1177.

The presumption is that claims paid by City Auditor of second class cities were approved and certified and that the appropriation had been made. Barron v. Kaufman, 131 Ky., 642.

All allowance made by city council (third class) without authority, may be recovered back on ground of mistake of law. City of Owensboro v. Sterman, 8 Ky. Law Rep., 263.

Sec. 1, of old City Charter, approved March 16, 1869, reads as follows:

§ 1. That the plan, plat and map of the town of Frankfort, executed in the year 1839, by R. M. Stealey, and recorded in the Clerk's office of the Court of Appeals, and the map or plan of South Frankfort, on file in the office of the Clerk of the Franklin County Court, shall be, and the same are hereby declared to be, the true map, plat and plan of the city of Frankfort; that the originals or attested copies of said maps may be used in evidence in the same manner that other records and copies thereof may be used; ond the corporate limits and jurisdiction of said city of Frankfort shall extend to the limits indicated and defined in said maps.

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thirty-six east one hundred and ninety-four and seventy-two one-hundredth poles to "Two," a point opposite a three-pronged elm tree on the bank; thence south fifty-eight and three-fourths east forty and four one-hundredths poles to "Three," the southwest corner of J. A. Murry, on the east side of the Lewis Ferry turnpike; thence south seventy-three and three-fourths east one hundred and forty-seven and two one-hundredths poles to "Four," a stake on the hill near the Owenton turnpike road; thence south fifty-seven and three-fourths east thirty-two poles to the Owenton pike; same course one hundred and seven and sixty-six one-hundredths poles to the Midland Railroad; same course continued in all one hundred and thirty poles to "Five," the coal-house of the Colored Normal School; thence south seven west ninety-three and five one-hundredths poles to "Six," John L. Scott's corner on the south side of the Frankfort and Versailles turnpike road; thence south thirty-one west one hundred and fifty-nine poles to "Seven," the southeast corner of the cemetery; thence with south of the cemetery south sixty and a half west forty poles to "Eight;" south sixty-nine and a half west thirty-two and a half poles to the river; same course across the river sixty-one and forty-five one-hundredths poles to "Nine;" thence up the river on the west side, at low water mark, south thirty-five and a half west eighty-one and five one hundredths poles to "Ten," south twenty-seven and a half west sixty and four one hundredths poles to "Eleven," a point at low water mark, and one-hundred and forty-six feet below the pump-house of the water-works; thence up the hill north seventy-seven and three-fourths west seventy-five poles to "Twelve," the elbow of the old Louisville road, the extension of Shelby street, South Frankfort; thence up the said Louisville road south seventy-four and three-fourths west thirty-six poles to "Thirteen;" thence north seventeen west, reaching the Louisville and Frankfort turnpike at eighteen poles, continuing down the road with the same course seventy and four one hundredths poles to "Fourteen;" still down the pike and with its meanders north thirty and a half west sixteen poles to "Fifteen;" north sixty-nine and a fourth west fourteen and a half poles to "Sixteen;" north five west eleven and four one hundredths poles to "Seventeen;" north twenty-two and a half west forty-five and a half poles to "Eighteen," the culvert at the west end of Cross street, South Frankfort; thence north eighteen west forty-two poles to "Nineteen," at the dirt road up the hill, known as the Major road; thence down the same north thirty-four and a fourth west twenty-four poles to "Twenty;" north twenty-two and a half west twenty-eight and a half poles to "Twenty-one," the intersection of this road with the Frankfort boulevard; thence down said boulevard north twenty-three west thirty-six poles to "Twenty-two," the north end of the iron bridge over the Devil's Hollow branch; north to east twenty-four poles to "Twenty-three;" north eleven east twenty-six poles to "Twenty-four;" north twenty-three and a half east sixteen and five one hundredths poles to "Twenty-five;" north thirty-nine and a half east forty poles to the railroad, same

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course continued sixty-two poles to "A," the beginning: *Provided, however,* That any land brought within the limits of said city by said extended boundary, which are used strictly for agricultural purposes, shall not be taxed for municipal purposes until the same shall be improved, built upon or used for city purposes. (Approved April 22, 1890.)

Bellepoint Annexed.

§ 2. That the following described territory be and the same is hereby declared to be a part and parcel of Ward No. 3: "Beginning at a point on the line of the Louisville & Nashville Railroad formally known as the Louisville, Cincinnati & Lexington Railroad near the northwest corner of the coopershop owned by the E. H. Taylor, Jr., Company; thence north fifty-one degrees fifty-seven minutes east in a straight line, which if extended, would strike the center of the smoke stack of the Carlisle Distillery, to low water mark, on the west bank of the Kentucky River; thence south with the meanders of said river to the bridge across the Benson Creek, crossing said creek with said bridge and thence with the southeast boundary of the turnpike road, leading from said Benson bridge to the western end of the railroad bridge; thence with said railroad to the beginning." (Nov. 28, 1894.)

Sub-Sec. 1. That the following described territory and the same is hereby annexed to the city of Frankfort—Beginning at a point on the line of the Louisville & Nashville Railroad, formally known as the Louisville, Cincinnati & Lexington Railroad near the northwest corner of the Coopershops owned by the E. H. Taylor, Jr., Company; thence north fifty-one degrees fifty-seven minutes east, in a straight line, which if extended, would strike the center of the smoke stack of the Carlisle Distillery, to low water mark on the west bank of the Kentucky river; thence south with the meanders of said river, to the bridge across Benson creek, crossing said creek with said bridge and thence with the southeast boundary of the turnpike road, leading from said Benson bridge to the western end of the railroad bridge; thence with said railroad to the beginning. (Amendment Jan. 9, 1985.)

Southern Boundary Changed.

Sub-sec. 2 of Sec. 2. That so much of the southwest of the city is hereby changed and mover in. Beginning at a planted stone marked city limits on the south side of old Louisville road, defined and marked thirteen (13) of a survey made and approved by an act of the Legislature defining the city limits of Frankfort, April 22, 1890, north 10 west 30 poles to a point 10 feet east, of the east line of Louisville pike, thence north 18½ west 48 poles to a point near large oak, east of Louisville road, thence north 29½ west 75 poles to the east side of Louisville pike and at the head of what is known as Cross street, or west end of same

Sub-Sec. 2. This ordinance was not passed in accordance with the requirements of the Charter, Sec. 52, and is void.

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near large culvert under the road, thence north 20½ west 42 poles, to a planted stone on the side of dirt road on a hill known as the Major road marked city limits as established by the above act of the Legislature. (March 27, 1905.)

Dividing Lines for House Numbering.

§ 3. Councilman Stephens reported that the Caron Directory Company were preparing a new city directory and would re-number the city. The platt of the Caron Directory was approved by the committee and accepted by the council and the city will be divided by the river north and south and by Capital avenue east and west on the south side and by High street east and west on the north side. (July 25, 1910.)

Restricted Terrritoy for Sale of Liquor.

§ 4. Be it ordained by the common council of the city of Frankfort, that no license shall be granted to sell intoxicating liquors in any part of the city of Frankfort, except that part thereof bounded by Broadway street on the north, High street on the east, the Kentucky river on the south, and Washington street on the west, including both sides of the streets named, except the river on the south. (Sept. 22, 1909.)

Ward Boundaries.

§ 5. That all that part of the city of Frankfort, Ky., which lies south of the Kentucky river, shall constitute Ward No. 1. That all that part of the city which lies on the east side of St. Clair street and on the north side of the Kentucky river shall constitute Ward No. 2. And that all that part of said city which lies on the west side of St. Clair street and on the north side of the Kentucky river, including the territory known as Bellepoint and particularly described as follows: Beginning at a point on the line of the Louisville & Nashville Railroad, formerly known as the Louisville, Cincinnati & Lexington Railroad near the northwest corner of the cooper shops owned by the E. H. Taylor, Jr., Company; thence north fifty-one degrees fifty-seven minutes east in a straight line, which if extended, would strike the center of the smoke stack of the Carlisle Distillery, to low water mark, on the bank of the Kentucky river; thence south with the meanders of said river to the bridge across Benson creek, crossing said creek with said bridge and thence with the southeast boundary of the turnpike road, leading from said Benson bridge to the western end of the railroad bridge; thence with said railroad to the beginning, shall constitute Ward No. 3. (Oct. 23, 1895.)

Precinct Boundaries.

§ 6. Voting Precinct No. 1. (Vogler's)—All that portion of South Frankfort east of Shelby street. (County Court Order Book No. 8, page 611.)

Art. 1. See notes to sec. 3287, Ky. Stats. (City Charter), sec. 52 of this volume for court decisions on subject of annexing new territory.

See also Pence v. City, 19 Ky. Law Rep., 171, 101 Ky., 534 and Board of Councilmen v. Scott, 19 Ky. Law Rep., 1068, 101 Ky., 615. Constitution of Ky., sec. 52 and notes.

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§ 7. Voting Precinct No. 2 (Bridge)—All that portion of South Frankfort west of Shelby street. (County Court Order Book No. 8, page 611.)

§ 8. Voting Precinct No. 3 (Courthouse)—Beginning at end of the alley back of the Baptist Church (on river bank), thence with the alley northwardly to Lewis street, and with the same to Clinton street, thence with the same westwardly to the intersection with Wilkinson street, thence with Wilkinson street southwestwardly to its intersection with the L. & N. Railroad, thence with the same northwestwardly to the northeast bank of the Kentucky river, thence up the same to the place of beginning. (County Court Order Book No. 12, page 149.)

§ 9. Voting Precinct No. 4 (Market House)—Beginning at the interesection of Lewis street and the L. & N. R. R. thence eastwardly with the L. & N. R. R. to the Kentucky Midland R. R., thence with the same to the city limits, thence southwardly with the same and around to the Kentucky river, thence down the same to south end of alley back of Baptist Church, thence with the same and Lewis street to the place of beginning. (County Court Order Book No. 8, page 611.)

§ 10. Voting Precinct No. 5 (Gaines' Stable)—Beginning at intersection of Lewis street and L. & N. R. R. on Broadway, thence with Lewis street northwardly to Clinton street, thence westwardly with Clinton street to St. Clair, thence with center line of the same produced to the city limits line, thence with the same eastwardly to the Kentucky Midland R. R., thence with the same to the L. & N. R. R., thence with the same to the place of beginning. (County Court Order Book No. ——, page 612.)

§ 11. Voting Precinct No. 6 (Gas House)—Beginning at the intersection of Clinton and St. Clair St., thence northwardly on St. Clair, with its center line produced to the city limits line, thence with the same westwardly to a corner of the Kenney's Mill Precinct (No. 7), thence with the same parallel to and 250 feet from Wilkinson street southwestwardly to Hill street, thence with the same westwardly to Wilkinson street, thence with the same southwestwardly to Clinton street, thence with Clinton street southwardly to the place of beginning. (County Court Order Book No. 12, page 149.)

§ 12. Voting Precinct No. 7—(Kenney's Mill)—Beginning at corner of city limits on L. & N. R. R. at Coopershop, thence with railroad and city limits line to intersection of center line of Wilkinson street, thence with center of same, to its intersection with Hill street southeasterly 250 feet, thence leaving the same and parallel with Wilkerson street in a northeasterly direction to the city limits line, thence with the same northwestwardly to the Kentucky river, thence up the same still with the city limits line to point of crossing of same, thence across the river with the same, to opposite side, thence down the river, to lower corner of city limits, thence with the same southwestwardly to the place of beginning. (County Court Order Book No. 12, page 148.)

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CHAPTER 4—FRANCHISES AND PUBLIC UTILITIES.

ARTICLE 1.

An ordinance providing for supplying the city of Frankfort and its inhabitants with water for public and private purposes, granting the Frankfort Water Company of Frankfort, Kentucky, the franchise and license of constructing and operating water-works; selling to the said company the water mains and its appurtenances owned by the Board of Councilmen of the city of Frankfort, contracting with the said company for fire hydrants, and giving the said city an option to purchase the said works.

Be it ordained by the Board of Councilmen of the city of Frankfort, in meeting assembled:

§ 1. It being expedient and necessary to provide a supply of water to the city of Frankfort and its inhabitants for public and private purposes, and it being inexpedient for the said city to procure and furnish the said supply, the franchise and license is hereby granted to the Frankfort Water Company, of Frankfort, Kentucky, a corporation organized and existing under the laws of the State of Kentucky, and its successors and assigns, in perpetuity, but subject to the forfeiture hereinafter provided, to construct and operate in and near the said city water-works for supplying the city of Frankfort and the inhabitants of the said city and of its vicinity with water for public and private purposes, and use within the present and future limits of the city of Frankfort the streets and other public ways and places and the Kentucky river, for the purpose of placing, taking up and repairing mains, pipes, hydrants and other apparatus for the supply of water.

§ 2. The Board of Councilmen of the city of Frankfort, deeming this course for the best interests of the city of Frankfort, and, in consideration of the sum of twenty thousand dollars cash in hand, to be paid to the Board of Councilmen of the city of Frankfort, within ten days from the acceptance of this ordinance, by the Frankfort Water Company, the Board of Councilmen of the city of Frankfort grants, bargains and sells to the said company the water mains now owned by the Board of Councilmen of the city of Frankfort, in Franklin County and the city of Frankfort, and the valves and hydrants appurtenant thereto, and all the privileges, franchises and immunities therewith connected or exercised by the Board of Councilmen of the city of Frankfort; and the mayor is hereby authorized and instructed to receive the said purchase money, and thereupon to execute and acknowledge and deliver to the Frankfort Water Company, for and in behalf of the Board of Councilmen of the city of Frankfort, a deed of conveyance for the said water mains and their said appurtenances, and all the privileges, franchises and immunities therewith connected or exercised by the Board of Councilmen of the city of Frankfort; and the clerk of the said board is hereby authorized and instructed to affix the seal of the city to the said deed, and to attest, acknowledge

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and deliver it for and in behalf of the Board of Councilmen of the city of Frankfort to the Frankfort Water Company, and the Board of Councilmen shall, upon the delivery of said deed, account to the Frankfort Water Company for, and pay over to it, the unearned water rents collected up to the date of the delivery of the said deed; and the Frankfort Water Company shall account to the said board for any water rates accrued to the said board up to the date of the said delivery of the said deed, which the said company may hereafter collect, and the said company shall have the use of all the other plant of the water-works, owned by said board, free of charge, and shall keep open the present water supply by the said water-works so sold to it, until such time when it shall dig up the twelve-inch main now in use, for the purpose of using it for constructing its new water-works. But the said Board of Councilmen shall not be cheargeable for water used for fire purposes until the completion of the said new works.

§ 3. The said company shall erect upon one of the hills south of the city of Frankfort two reservoirs, of an aggregate capacity of at least five millions of gallons of water, the flow line of which shall be at least two hundred and fifty feet above the intersection of Broadway and St. Clair streets, in the city of Frankfort, and the city of Frankfort shall be supplied from the said reservoirs.

§ 4. At such a point on the Kentucky river above the present city sewerage, which the said company may elect, it shall erect a substantial stone or brick pumping station, of ample size to accommodate its pumping machinery, which shall be of the capacity delivering into the said reservoirs two millions of gallons of water in twenty-four hours. The supply of water shall be taken from the bottom of the channel of the Kentucky river, at the point selected as hereinbefore described by the said company.

§ 5. All the water mains used by the said company shall be of the best quality of cast-iron, coated inside and outside with Dr. Angus Smith's patent coal tar varnish, and shall be tested at their place of manufacture to withstand a hydrostatic pressure of three hundred pounds to the square inch. There shall be laid in the following described places, water mains of the following described sizes:

1. From the pumping station to the reservoirs, twelve inches in diameter.

5. In Holmes street, from High street to the third street east of it, six inches in diameter.

6. In Clinton street, from Wilkinson street to the lot of the colored graded school, six inches in diameter.

7. In Broadway, from its foot to Main street, twelve inches in diameter.

8. In the Georgetown and Versailles pike, from Main street to the eastern corporation line, six inches in diameter.

9. In Main street, from Wilkinson street to Broadway, twelve inches in diameter.

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10. In Wapping street, from Wilkinson street to St. Clair street, six inches in diameter.
11. In Wilkinson street, from Hill street to its foot, six inches in diameter.
12. In Washington street, from Hill to Wapping street, six inches in diameter.
13. In Madison street, from Clinton street to Broadway, six inches in diameter.
14. In St. Clair street, from Hill to Clinton street, six inches in diameter.
15. In St. Clair street, from Broadway to its foot, eight inches in diameter.
16. In Lewis street, from Clinton to Broadway, six inches in diameter.
17. In Ann street, from Broadway to Hill street, eight inches in diameter.
18. In Ann street, from Broadway to its foot, fourteen inches in diameter.
19. In Hight street, from Holmes to Main street, six inches in diameter.
20. In the Kentucky river, from the foot of Ann to the foot of Steele street, fourteen inches in diameter.
21. In Second street, from Fowler street to Judge Drane's big gate, at the west end of Second street, eight inches in diameter.
22. In Third street, from Conway to Murray street, six inches in diameter.
23. In Cross street, from Ewing street to its foot, six inches in diameter.
24. In Todd street, from Steele to Logan street, six inches in diameter.
25. In Conway street, from Second to Campbell street, six inches in diameter.
26. In Steele street, from its foot to Todd street, fourteen inches in diameter.
27. In Shelby street, from Second to Todd streets, six inches in diameter.
28. In Logan street, from Second to Todd street, six inches in diameter.
29. In Murray street, from Second to Todd street, six inches in diameter.

And the said company agrees to extend its mains, upon the order of the Board of Councilmen of the city of Frankfort, whenever the said board shall agree to rent one additional fire hydrant for every four hundred feet so extended, or shall furnish one responsible consumer, by written contract for not less than three years, for every seventy-five feet of mains, at the rate of charges provided in this ordinance.

§ 6. The said company shall furnish and set, at the places hereinafter mentioned, and connect with the said mains by branch pipes of

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the diameter of six inches each, one hundred fire hydrants of modern and appropriate pattern and good efficiency, each having two nozzles of the diameter of two and one-half inches each, their thread fitting the hose couplings now used by the fire department of the city of Frankfort.

The said hydrants shall be located at the following named places:

1. Corner of Hill and Wilkinson streets.
2. Corner of Hill and Washington streets.
3. Corner of Hill and St. Clair streets.
4. Corner of Hill and Ann streets.
5. Corner of Mero and Wilkinson streets.
6. Corner of Mero and Washington streets.
7. Corner of Mero and St. Clair streets.
8. Corner of Mero and Ann streets.
9. Corner of Mero and High streets.
10. Holmes, half way between High and the first street east of it.
11. Holmes, and the first street east of High street.
12. Holmes, and the second street east of High street.
13. Holmes, and the third street east of High street.
14. Corner of Clinton and Wilkinson streets.
15. Corner of Clinton and Washington streets.
16. Corner of Clinton and Madison streets.
17. Corner of Clinton and St. Clair streets.
18. Corner of Clinton and Lewis streets.
19. Corner of Clinton and Ann streets.
20. Corner of Clinton and High streets.
21. Mero, in the center of the penitentiary front.
22. Clinton, in the east line of the penitentiary front.
23. Clinton, three hundred feet east of the said east line.
24. Clinton, at the west line of the colored graded school.
25. Foot of Broadway.
26. Broadway, corner of alley between river and Wilkinson streets.
27. Broadway, corner of Wilkinson street.
28. Broadway, corner of alley between Wilkinson and Washington streets.
29. Broadway, corner of Washington street.
30. Broadway, corner of Madison street.
31. Broadway, corner of St. Clair street.
32. Broadway, corner of Lewis street.
33. Broadway, corner of Ann street.
34. Broadway, corner of alley between Ann and High streets.
35. Broadway, corner of High street.
36. Broadway, corner of Main street.
37. Georgetown and Versailles pike, 400 feet east of Main street.
38. Georgetown and Versailles pike, 800 feet east of Main street.
39. Georgetown and Versailles pike, 1,200 feet east of Main street.
40. Georgetown and Versailles pike, 1,600 feet east of Main street.
41. Georgetown and Versailles pike, at eastern corporation line.

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42. Main, corner of Wilkinson street.
43. Main, corner of alley between Wilkinson and Washington streets.
44. Main, corner of Washington street.
45. Main, corner of alley between Washington and St. Clair streets.
46. Main, corner of St. Clair street.
47. Main, corner of Lewis street.
48. Main, corner of Ann street.
49. Main, corner of alley between Ann and High streets.
50. Main, corner of High street.
51. Wapping, corner of Wilkinson street.
52. Wapping, corner of alley between Wilkinson and Washington streets.
53. Wapping, corner of Washington street.
54. Wapping, corner of alley between Washington and St. Clair streets.
55. Wapping, corner of St. Clair street.
56. Wilkinson, half-way between Clinton and Broadway streets.
57. Foot of Wilkinson street.
58. Madison, half-way between Clinton and Broadway streets.
59. St. Clair, corner of Blanton street.
60. St. Clair, half-way between Broadway and Main streets.
61. St. Clair, half-way between Main and Wapping streets.
62. Foot of St. Clair street.
63. Ann, corner of Blanton street.
64. Foot of Ann street.
65. High, half-way between Mero and Clinton streets.
66. Second, corner of Ewing street.
67. Second, corner of alley between Ewing and Bridge streets.
68. Second, corner of Bridge street.
69. Second, corner of Steele street.
70. Second, corner of Shelby street.
71. Second, corner of Main street.
72. Second, corner of Logan street.
73. Second, corner of Murray street.
74. Second, corner of Fowler street.
75. Second street, at west end, at Judge Drane's big gate.
76. Todd, corner of Murray street.
77. Third, corner of Conway street.
78. Third, corner of Steele street.
79. Third, corner of Shelby street.
80. Third, corner of Main street.
81. Third, corner of Logan street.
82. Third, corner of Murray street.
83. Murray, corner of Campbell street.
84. Cross, corner of Ewing street.
85. Cross, corner of Conway street.

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86. Cross, corner of Steele street.
87. Cross, corner of Shelby street.
88. Cross, corner of Main street.
89. Cross, corner of Logan street.
90. Cross, corner of Murray street.
91. Cross, corner of Fowler street.
92. Foot of Cross street.
93. Todd, corner of Steele street.
94. Todd, corner of Shelby street.
95. Todd, corner of Main street.
96. Todd, corner of Logan street.
97. Foot of Steele street.
98. Steele, corner of Campbell street.
99. Shelby, corner of Campbell street.
100. Logan, corner of Campbell street.

The said Board of Councilmen shall have the right, upon the mains hereinbefore located, to put in and maintain, at its own cost and expense, any intermediate fire hydrants, free of charge for water.

§ 7. There shall be no unreasonable obstruction of the public ways of the said city by the said company, in constructing the said works, or in placing, taking up or repairing any main, hydrant or other structure or device for the service of water; and the said company, after using the said public ways, shall restore them, within a reasonable time, as to good condition as before, and shall hold the said city harmless from any and all damages arising from negligence or mismanagement of the said company, or of its employes, in constructing, extending or operating the said works. In all street excavations the said company shall keep red danger lights burning at night along the line of the said excavations, at least one light every one hundred and fifty feet, and shall erect barricades at the ends of the excavations, and at all street crossings on the line of the said excavations.

§ 8. The said company shall begin its construction within ninety days from the acceptance of this ordinance, and shall have the said works in successful operation on or before the first of July in the year 1885.

§ 9. The said company shall test the power and capacity of said works, on their completion, under the supervision of the said city, when they shall throw, from separate hydrants in the business part of the said city, six simultaneous fire streams through a section of hose and a one-inch nozzle; and when they shall throw at another time, from separate hydrants in the residence part of the said city, four simultaneous fire streams through a section of hose and a one-inch nozzle.

§ 10. At the expiration of ten years from the completion of said works, the said city shall have the right to purchase the said works at a fair valuation, to be agreed upon between the said city and the said company.

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And, in the event that they fail to agree, the said city shall have the right to have three disinterested appraisers appointed; one to be appointed by the said city, one by the said company, and the third by the two so appointed. Before the said three persons determine the said value the said city and the said company shall each have the right to produce expert evidence, under oath, before the said three persons as to such value, whereupon the said three persons shall proceed to determine the said value, and in so doing they shall take into consideration the productive value of the said works, and the said city shall have then the option of purchasing or of refusing to purchase at the said price so determined; and if it shall elect to purchase, it shall pay the said sum within three months from the day of the said award, but if it shall fail or refuse so to purchase, it shall pay the necessary expenses incurred by the said company about the said award.

But if the said city shall determine to avail itself of this right it shall give the said company written notice of its intention to call for such appraisement, at least one year before the expiration of the said ten years.

§ 11. In consideration of the benefits which will be derived by the said city and its inhabitants from the construction and operation of the said water-works, and in further consideration of the water supply hereby secured for public uses, and as the inducement for the said company to enter upon the construction of the said water-works, the franchise and license hereby granted to and invested in the said company, its successors and assigns shall remain in force and effect in perpetuity subject to the forfeiture hereinafter provided, and for the same consideration, and as the same inducement the Board of Councilmen of the city of Frankfort hereby rent of the Frankfort Water Company, of Frankfort, Kentucky, for the uses hereinafter mentioned, the above described one hundred hydrants for and during the term of twenty-five years from the completion of the said works. And the Board of Councilmen of the city of Frankfort agrees to use the said hydrants carefully and to pay the said company for any injury which may happen to any of them, when used by any officer or servant of the said city or any member of its fire department, and it agrees to pay rent for the said one hundred hydrants at the rate of sixty-two and fifty one hundredths dollars ($62.50) each per annum, in all the sum of six thousand two hundred and fifty dollars per annum, for the said term of twenty-five years; which rent shall be paid in semi-annual installments, of thirty-one hundred and twenty-five dollars each, on the first days of January and July of each year of the said term.

And it being understood that the Frankfort Water Company will make and issue, on the first day of July, in the year 1885, its one hundred and twenty-five first mortgage coupon bonds, of the determination of one thousand dollars each, numbered consecutively, one to one hundred and twenty-five, both numbers inclusive, in all amounting to one hundred and twenty-five thousand dollars, dated the first day of July, in the year 1885, and payable twenty-five years thereafter, to Grant

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Green, trustee or bearer, bearing five per centum interest per annum from their date, payable semi-annually, for which interest there will be attached to each of the said bonds fifty coupons, each for twenty-five dollars, payable at the Bank of America, in the city of New York, and the said coupons consecutively and correspondingly numbered and matured; the first payable January 1st, 1886, and the others in regular intervals of six months thereafter, and the last July 1st, 1910; the total semi-annual interest being thirty-one hundred and twenty-five dollars. The Board of Councilmen of the city of Frankfort assumes to pay all of the said coupons of all of the said bonds to the holder and holders of the said coupons, according to their tenor, and when and as the said coupons respectively mature, in liquidation of the said rent of the said one hundred hydrants, and hereby authorize and instructs its city clerk to sign a certificate on the back of said bonds to that effect, and to affix the seal of the said city to such certificate. And at the expiration of the said twenty-five years, unless the Board of Councilmen of the city of Frankfort shall have purchased the said works, it shall renew the said contract for the rent of the said hydrants for another term of twenty-five years, and a sufficient tax shall be levied and collected annually, on the taxable property in the city of Frankfort, to meet the payments under this ordinance when and as they will respectively mature, and the rentals of any additional fire hydrants on extensions during the existence of this franchise and license shall be at the annual rate of fifty dollars ($50) each.

§ 12. The fire hydrants so rented of the said company shall be used for the extinguishment of fires only, and for flushing gutters and sewers. All flushing shall be done through a hose and fire nozzle, and for such purpose no one hydrant shall be used exceeding thirty minutes per week, nor shall more than one hydrant opening be used for such purpose at any one time, nor shall any flushing be done during a fire, nor without notice to the said company.

§ 13. The said company shall constantly, day and night, except in case of any unavoidable accident, keep all fire hydrants rented of it by the said Board of Councilmen of the city of Frankfort supplied with water for instant fire service, at sufficient pressure to do away, within the reach of said hydrants, with the aid of steam fire engines. The chief of the fire department, or, in his absence, the officer in charge thereof, shall have charge and control of the said fire hydrants, and may at any time cause such hydrants to be inspected; and if, on such inspection, any of the said hydrants are found out of working order, it shall be his duty to notify said company, in writing, forthwith, specifying the hydrant or hydrants out of working order, whereupon the said company shall place such hydrant or hydrants in effective working order with reasonable dispatch, and the said officer shall report to the said Board of Councilmen of the city of Frankfort the date of such examination and the result thereof, and his subsequent action in the premises, if any; and in case any of such hydrants shall remain out of repair for one week or more, after the

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said company shall have been so notified in writing, the said company shall pay the sum of ten dollars per week for each and every hydrant, for the period said hydrant is not in working order, after the said notice; provided that the total amount so to be paid shall not exceed double the yearly rental of such hydrant or hydrants; and in case the said water-works shall, after their completion and successful operation, suffer a suspension of the supply of water, for both domestic and fire purposes, exceeding thirty days, then and in that case the said company shall forfeit all franchises hereby granted, unless such suspension shall have been caused by circumstances beyond the control of the said company.

§ 14. The said company shall not charge to consumers, during the continuance of the franchise granted by this ordinance, exceeding the rates prescribed in the "Revised Tariff of Water Rents of the Louisville Water Company," adopted in the year 1878, and hereto appended as a part hereof, which rates it may collect in semi-annual installments in advance; but it shall have the right at its will at any time to insert a meter into the service pipe of any consumer, if it shall believe that such consumer has allowed any waste of water and to supply such consumer thenceforth at meter rates.

The connections between the mains of the said company and its consumers shall be made by and at the expense of the respective consumers, but for making the tap for the connections now in the streets of the city of Frankfort and the said company shall exact no charge.

§ 15. This ordinance shall become binding as a contract on the Board of Councilmen of the city of Frankfort in the event that the Frankfort Water Company, of Frankfort, Kentucky, shall, within twenty days from the passage of this ordinance, file with the Board of Councilmen its written acceptance of the terms and conditions of this ordinance, and upon such acceptance this ordinance shall constitute the contract and shall be the measure of the rights and liabilities of the Board of Councilmen of the city of Frankfort and of the Frankfort Water Company, of Frankfort, Kentucky.

§ 16. The mayor and the clerk of the city of Frankfort are hereby authorized and instructed to seal duplicate copies of this ordinance, upon its said acceptance, with the common corporate seal of the Board of Councilmen of the city of Frankfort, and to sign the same as such contract in the name and in behalf of the Board of Councilmen of the city of Frankfort, and to deliver one of the said copies, so signed and sealed in behalf of it, to the Frankfort Water Company, of Frankfort, Kentucky, and to accept the other when signed and sealed by the said company, in behalf of the Board of Councilmen, and to cause it to be properly acknowledged and recorded according to law in the office of the clerk of the Franklin County Court.

§ 17, Nothing contained in this ordinance shall be so construed as exempting the property of the said company within the city limits from taxation for city purposes.

§ 18. This ordinance shall take effect at its passage.

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The Vice-President and Secretary of the Frankfort Water Company being present, thereupon presented to the Board of Councilmen their acceptance of the above ordinance, which acceptance is as follows:

OFFICE OF THE FRANKFORT WATER COMPANY,
OF FRANKFORT, KENTUCKY, July 28, 1884.

To the Board of Councilmen of the City of Frankfort:

GENTLEMEN:—Please take notice that the Frankfort Water Company hereby accepts the terms and conditions of the ordinance of the Board of Councilmen of the city of Frankfort, passed by it at its meeting today, entitled: "An ordinance providing for supplying the city of Frankfort and its inhabitants with water for public and private purposes, granting the Frankfort Water Company, of Frankfort, Kentucky, the franchise and license of constructing and operating waterwork; selling to the said company the water mains and its appurtenances owned by the board of Councilmen of the city of Frankfort;

TARIFF OF WATER RATES.

Class I.

Dwellings—Private.

For 1 room, per annum	$3.00
For 2 rooms, per annum	3.60
For 3 rooms, per annum	4.20
For 4 rooms, per annum	4.80
For 5 rooms, per annum	5.40
For 6 rooms, per annum	6.00
For 7 rooms, per annum	6.60
For 8 rooms, per annum	7.20
For 9 rooms, per annum	7.80
For 10 rooms, per annum	8.40
For 11 rooms, per annum	9.00
Thence, each additional room, per annum	50

These rates shall apply to all rooms except attic rooms, small rooms over halls, and rooms in basements, on which the rate of 25 cents per annum shall be assessed.

Cellars, bath-rooms, and pantries are not to be counted as rooms in making the assessments.

Rooms in out-buildings, rear buildings, or buildings on alleys, when occupied by servants, are to be assessed 25 cents each per annum, and when occupied by tenants, one-half the rates on private dwellings.

The above rates are for the general uses of water in and about the dwellings, while the following rates are for the special uses of water as named:

Baths, each faucet per annum	$2.50
Sit baths, each faucet annum	50
Foot baths, each faucet per annum	25
Boilers, for steam heating, per annum	3 to 10.00
Boilers, with sediment cocks joining soil or waste pipe, each per annum	1.00
Buggies, carriages, and vehicles, if washed by hand, each per annum	1.25
Buggies, carriages, and vehicles with hose attachment on premises, each per annum	3.00
Billiard tables, each per annum	$3.00
Bowling alleys, each per annum	3.00
Cows or head of cattle, each per annum	1.00
Green houses, each per annum	3 to 5.00
Horses or mules, each per annum	1.25
Hose attachments for sprinkling streets during the sprinkling season, and washing sidewalks, steps, windows, and fronts, of lots not exceeding 25 feet front and half the width of the street, each per annum	5.00
For each additional foot front	10

Corner lots—both fronts are to be charged (if sprinkled) at above rates, by aggregating and estimating both fronts as one equivalent front.

Hose, automatic or rotative, lawn sprinklers, each per annum	$1.00
Sinks, each faucet per annum	$1.00
Urinals, each per annum	1.50
Water closets, with hand valves, each per annum	3.00
Water closets, with valve open during entire sitting, each per annum	6.00
Wash hand basins, each faucet per annum	50
Wash trays, tubs, or bins, each faucet per annum	50

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CLASS II.

Boarding Houses.

For 1 room, per annum.....$4.00
For 2 rooms, per annum..... 5.00
For 3 rooms, per annum..... 6.00
For 4 rooms, per annum..... 7.00
For 5 rooms, per annum..... 8.00
For 6 rooms, per annum..... 9.00
For 7 rooms, per annum..... 10.00
For 8 rooms, per annum..... 11.00
For 9 rooms, per annum..... 12.00
For 10 rooms, per annum..... 13.00
For 11 rooms, per annum..... 14.00
Thence, each additional room per annum 1.00

These rates shall apply to all rooms except attic rooms, small rooms over halls, and rooms in basements, on which shall be assessed the rate of 50 cents each per annum.

Cellars, bath-rooms, and pantries are not to be counted as rooms in making assessments.

Rooms in rear or out-buildings, when used by servants, are to be assessed 25 cents each per annum, and when occupied by tenants, one-half dwelling-house rates.

The above rates for boarding-houses shall apply to all private and public houses which furnish accommodations for day or lodging boarders, and they are for the general uses of water in and about the boarding-houses, while the following rates are for the special uses of water as named:

Baths, each faucet per annum.....$2.50
Sit baths, each faucet per annum..... 50
Foot baths, each faucet per annum.... 25
Boilers, for steam heating, each per annum .. ..3 to 10.00
Boilers, with sediment cocks joining soil or waste pipe, each per annum 1.00
Buggies, carriages, and vehicles, if washed by hand, each per annum 1.25
Same, with hose attachment on premises, each per annum..... 3.00
Billiard tables, each per annum..... 3.00
Bowling alleys, each per annum..... 3.00
Cows or head of cattle, each per annum 1.00
Green houses, each per annum 3 to 5.00
Horses or mules, each per annum..... 1.25
Hose attachments (same as dwelling-house rates).
Hose, automatic or rotative, dawn sprinklers, each per annum..... 1.00
Sinks, each faucet per annum..... 1.00
Urinals, each per annum..... 4.00
Water closets, with hand valves, each per annum 5.00
Water closets, with valves open during entire sitting, each per annum.... 10.00
Wash-hand basins, each faucet per annum 1.50
Wash trays, tubs, or bins, each faucet per annum 75

CLASS III.

Hotels.

From one room to twelve inclusive, the same rates as for boarding-houses. Thence for each additional room per annum, $1.25

These charges are for the general uses of water in and about the hotels, while the following rates are for the special uses of water as named:

Baths, each faucet per annum.....$5.00
Sit baths, each faucet per annum..... 1.00
Foot baths, each faucet per annum.... .50
Boilers, for steam heating, each per annum .. ..3 to 10.00
Boilers, with sediment cocks joining soil or waste pipes, each per annum 1.00
Buggies, carriages, and vehicles, if washed by hand, each per annum 1.25
Same, with hose attachment on premises, each per annum..... 3.00
Billiard tables, each per annum..... 3.00
Bowling alleys, each per annum..... 3.00
Cows or head of cattle, each per annum 1.00
Green houses, each per annum.....3 to 5.00
Horses or mules, each per annum..... 1.25
Hose attachments (same as dwelling-house rates).
Hose, automatic or rotative, lawn sprinklers, each per annum..... 1.00
Sinks, each faucet per annum..... 1.50
Urinals, each per annum..... 5.00
Water closets, with hand valves, each per annum 5.00
Water closets, with valves open during entire sitting, each per annum 10.00
Wash-hand basins, each faucet per annum 1.50
Wash trays, tubs, or bins, each faucet per annum 1.00

CLASS IV.

Block Buildings—Large and Small.

Boarding-house rates on the rooms occupied as dwellings, and dwelling-house rates on the fixtures for same if excluded from general or promiscuous use.

Sleeping-rooms in block buildings, with wash-hand basins, each per annum $4.00
Sleeping-rooms, without wash-hand basins, each per annum..... 3.00
Officers in block buildings, each room with wash-hand basin, per annum 5.00
Same, without wash-hand basin, per annum 3.00

Stores, factories, and other pursuits carried on in block buildings, the same rates as established for such enterprises when carried on in separate buildings.

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All fixtures in block buildings open to general or promiscuous use shall be assessed at public rates.

CLASS V.

Baths.

In private dwellings, each faucet per annum	$2.50
In boarding-houses, each faucet per annum	2.50
In hotels, each faucet per annum	5.00
In hospitals, each faucet per annum	2.50
In public bath-houses, each faucet per annum	5.00
All public places, each faucet per annum	5.00

CLASS VI.

Building Purposes.

Brickwork, for 10,000 or less	$1.00
Brickwork, for each additional thousand over 10,000	08
Concrete, for 16 perches of 25 cubic feet each or less	1.00
Concrete, for each additional perch over 16	06
Stone masonry, for 25 perches, of 25 cubic feet each or less	1.00
Stone masonry, for each additional perch over 25	04
Plastering, for each job requiring 40 bushels of lime or less	1.50
Plastering, for each additional bushel over 40	3 1-2c.

CLASS VII.

Hose Attachments.

Hose attachments for streets during the sprinkling season, and washing sidewalks, steps, windows, and fronts, of lots not exceeding 25 feet front and half the width of the street, each per annum	$5.00
For each additional foot front	10

Corner lots—both fronts are to be charged (if sprinkled) at above rates by aggregating and estimating both fronts as one esuivalent front.

Hose, automatic or rotative, lawn sprinkler, each per annum	$1.00
For sprinkling public or pleasure gardens, per square yard, for the season	1 1-2c.

For supplying cars used in sprinkling the public ways of the city, a license of $15 for each car per season and 15 cents per thousand gallons of water by meter or other equally correct method of measurement. Or, in such cases as the Water Company may determine, a charge of 1 1-2 cents per square yard of street surface sprinkled during the season.

For the use of hose for all other purposes not herein enumerated, special rates will be fixed by the Water Company.

CLASS VIII.

Manufactories.

Artificial stone, per annum	$ 5 to	$10.00
Bakeries, per bbl. of flour		01
Belting, per annum	10 to	30.00
Bitters, per annum	10 to	30.00
Bleacheries, per annum	5 to	15.00
Bolt machines, each per annum		5.00
Book binderies, each per annum	3 to	5.00
Brick yards, each table per season		17.50
Candy and soda, each per annum	5 to	15.00
Canning fruit, each per annum	5 to	10.00
Casing tobacco, each per annum	2 to	5.00
Catsup, pickles, etc., each per annum	5 to	10.00
Carriages, each per annum	10 to	20.00
Children's carriages, each per annum	5 to	10.00
Chair, each per annum	5 to	10.00
Car trimmings, each per annum	5 to	10.00
Coffee roasting and wetting, each per annum	5 to	10.00
Coke ovens, each per annum		3.50
Cooking licorice and casing tobacco, each per annum		5.00
Cooking bones — fertilizers, each per annum	10 to	25.00
Coloring hemp—duster factory, each per annum	5 to	10.00
Coffee and spice mills, each per annum	3 to	5.00
Cooperages, each per annum	5 to	10.00
Dissolving or rendering lye, or soap factory, per boiler per annum	15 to	20.00
Distilleries, small, each per annum	5 to	50.00
Dyers and scourers, each per annum	10 to	20.00
Engines, small, each per annum	5 to	10.00
Edged tools, each per annum	5 to	10.00
Equalizing and compound-pounding liquors, each per annum	5 to	25.00
Felt roofing, each per annum	10 to	20.00
Foundries, each machine moulder, each per annum		1.50
Foundries, each plate moulder, each per annum		75
Foundries, brass, each per annum	3 to	10.00
Foundries, type, each per annum	5 to	10.00
Foundries, bell, each per annum	7 to	15.00

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Forges, blacksmiths, each per annum		1.50
Forges, steam hammer, each per annum		5.00
Furniture, each per annum	5 to	10.00
Gang saws in stone yard, each gang per annum	5 to	15.00
Gas apparatus, each per annum	3 to	5.00
Grindstones, each per annum	5 to	10.00
Hemp dusters, each per annum	5 to	10.00
Horse shoe, each per annum	10 to	30.00
Horse collar, each per annum	5 to	20.00
Hub and spoke, each per annum	5 to	10.00
Incrustation fluid, each per annum	5 to	10.00
Laundries, each per annum	5 to	15.00
Leather soaking tanks for curriers, each per annum	10 to	20.00
Leather soaking tanks for shoe factories, each per annum	5 to	10.00
Lard oil and soap, each per annum	20 to	50.00
Marbleizing works, each per annum	5 to	10.00
Mineral water, each per annum	5 to	30.00
Paper box, each per annum	3 to	8.00
Photographic galleries, each per annum	10 to	20.00
Planing mills, each per annum	5 to	10.00
Plow, each per annum	5 to	10.00
Picture frames, each per annum	5 to	10.00
Poteries, each per annum	10 to	30.00
Preparing materials for artificial stone, each per annum	10 to	30.00
Printing offices, each per annum	3 to	10.00
Rectifying liquors, each per annum	10 to	30.00
Rotary washing machines, each per annum	3 to	10.00
Revolving table in stone or marble yard, each per annum	10	20.00
Rendering tanks in slaughter houses, each per annum	3 to	10.00
Saddle tree, each per annum	5 to	20.00
Shoe, each per annum	5 to	15.00
Soda, each per annum	5 to	15.00
Soap and candle, each per annum	10.00 to	30.00
Small beer, each per annum	5 to	10.00
Tanneries, each per annum	10 to	30.00
Tempering clay in terra cotta works, each per annum	10 to	30.00
Tobacco stemmeries, each per annum	5 to	20.00
Tobacco factories, each per annum	5 to	20.00
Tobacco casing, each per annum	5 to	20.00
Tobacco warehouses, each per annum	5 to	20.00
Vanilla extract, each per annum	5 to	15.00
Vinegar, each per annum	5 to	15.00
Wagon, each per annum	5 to	10.00
Wagon grease, each per annum	5 to	10.00
Wooden ware, each per annum	5 to	10.00

The above rates are for the general uses of water in and about the manufactories, including ten hands. For each hand in a manufactory over ten in number, per annum 10 cents.

For all fixtures or special uses of water in and about manufactories, the same rates as elsewhere for similar purposes.

CLASS IX.

By Meter Measurement.

For 1,200 gallons daily, or less, per month	$5.40
For over 1,200, up to and including the first 5,000 gallons daily, per 1,000 gallons	15
For the second 5,000 gallons daily, per 1,000 gallons	14
For the third 5,000 gallons daily, per 1,000 gallons	13
For the fourth 5,000 gallons daily, per 1,000 gallons	12
For the fifth 5,000 gallons daily, per 1,000 gallons	11
For the sixth 5,000 gallons daily, per 1,000 gallons	10
For the seventh 5,000 gallons daily, per 1,000 gallons	9
For the eighth 5,000 gallons daily, per 1,000 gallons	8
For the ninth 5,000 gallons daily, per 1,000 gallons	7
For the tenth 5,000 gallons daily, per 1,000 gallons	6
For all additional quantities, per 1,000 gallons	6

CLASS X.

Quantity Assessments, When Estimated.

Daily average of 500 gallons or less, per 1,000 gallons	$0.35
Daily average of 500 to 1,000 gallons, per 1,000 gallons	33
Daily average of 1,000 to 2,000 gallons, per 1,000 gallons	31
Daily average of 2,000 to 3,000 gallons, per 1,000 gallons	29
Daily average of 1,000 to 4,000 gallons	27
Daily average of 4,000 to 5,000 gallons, lons, per 1,000 gallons	25
Daily average of 5,000 to 6,000 gallons, lons, per 1,000 gallons	23
Daily average of 6,000 to 7,000 gallons, per 1,000 gallons	21

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Daily average of 7,000 to 8,000 gallons, per 1,000 gallons 19
Daily average of 8,000 to 10,000 gallons, per 1,000 gallons..... 17
Daily average over 10,000 gallons, per 1,000 gallons 15

CLASS XI.

Stables.

Livery and sale, for average number of stalls in use, each per annum $1.50
Livery and sale, for average number of wheeled vehicles, each per annum 1.25
Livery and sale, for average number of wheeled vehicles, with hose attachment on premises, each per annum 3.00
Private, for each horse or mule used in buggy, carriage, wagon, or for draft purposes, per annum..... 1.25
Private, for each buggy, carriage, or vehicle, if washed by hand, per annum $1.25
Private, for each buggy, carriage, or vehicle, with hose attachment on premises, per annum 3.00
Private, for each cow or head of cattle, per annum 1.00
Stock yards, for average number of horses, mules, and cattle, per head, per annum..... 1.00
Stock yards, for average number of sheep and swine, per head, per annum 1.00

All fixtures in and about stables for other uses shall be assessed at the same rates as elsewhere for similar purposes.

CLASS XII.

Saloons.

Drinking, each per annum.....$10 to $45.00
Billiards, each table per annum 3.00
Chuck-a-luck, each table per annum 3.00
Eating, each table per annum 1.25
Faro, each table per annum.. 3.00
Ice cream, each table per annum 50
Lager beer, each table per annum 50
Pigeon hole, each table per annum 3.00
Roulette, each table per annum 3.00
Ten pin or bowling alleys, each per annum..... 3.00

CLASS XIII.

Stores and Shops.

Wholesale and retail, per annum .. ..$3 to $18.00

Fixtures in stores and shops at public rates.

If dwellings are connected with stores and shops they are to be assessed at dwelling-house rates, that is, such portions as are occupied as dwellings, and private or dwelling-house rates on the fixtures in same if they are excluded from general or promiscuous use.

For other purposes in and about stores, the same rates as elsewhere for special uses of water.

CLASS XIV.

Urinals.

In private dwellings, each per annum..$1.50
In boarding houses, each per annum.. 4.00
In hotels, each per annum..... 5.00
In hospitals and prisons, each per annum 4.00
In offices, private, each per annum.... 1.50
In offices, public, each per annum..... 00
In sleeping rooms, each per annum.... 1.50
In saloons, each per annum..... 5.00
In manufactories, each per annum..... 4.00
In all public places and where generally or promiscuously used, each per annum..... 0

These rates apply to urinals with treadle valves, which close automatically when stepping off.

CLASS XV.

Wash-hand Basins.

In private dwellings, each faucet per annum $0.50
In boarding houses, each faucet per annum 1.50
In hotels, each faucet per annum..... 1.50
In all other places, except offices and sleeping-rooms, each faucet per annum 1.50

CLASS XVI.

Water Closets.

In private dwellings, each per annum..$3.00
In boarding-houses, each per annum.. 5.00
In hotels, each per annum..... 5.00
In hospitals, each per annum..... 3.00
In offices, private, each per annum.. 3.00
In offices, public, each per annum..... 5.00
In sleeping-rooms, each per annum.... 3.00
In saloons, each per annum..... 5.00
In manufactories, each per annum.... 5.00
In all public places and where generally or promiscuously used, each per annum 5.00

These rates apply to closets with valves to be opened by hand, and which close automatically when removing the hand.

All water closets in which the valves are open during the entire sitting of the occupant, are to be assessed double the respective rates above enumerated.

CLASS XVII.

Miscellaneous Uses.

Aquariums, each per annum ..$ 3 to 20.00
Aquariums and fountains, each per annum..... 5 to 30.00
Asylums (dwelling-house rates).
Banks, each per annum..... 5 to 15.00

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contracting with the said company for fire hydrants, and giving the said city an option to purchase said works."

Witness the corporate seal of the Frankfort Water Company, attested by the signatures of its Vice-President and Secretary, the day and year first above written.

Very respectfully,

THE FRANKFORT WATER COMPANY,
OF FRANKFORT, KENTUCKY,
By J. STODDARD JOHNSTON, its Vice-President,
And by WM. REINECKE, its Secretary.

Barber shops, each chair per annum ..		3.00	Gardens, vegetable, each per annum ..	5 to	10.00
Boilers for distilling, each per annum ..	10 to	20.00	Green houses, each per annum ..	3 to	5.00
Bottling ale and beer, per annum ..	5 to	10.00	Gymnasiums, each per annum		5.00
Bathing tanks, each per annum ..	10 to	30.00	Halls, public, each per annum ..	5 to	15.00
Baptismal pools, each per annum ..		10.00	Hospitals (dwelling-house rates).		
Boilers (steam) for heating purposes, each per annum ..	3 to	10.00	Hydraulic pump, in bars or beer saloons, each per annum ..		5.00
Cells in jails, including inmates, each per annum..		1.50	Laboratories, chemical, each per annum ..	10 to	25.00
Churches, each per annum.....	5 to	10.00	Lumber sheds, each per annum ..		5.00
Convents (dwelling-house rates).			Market-houses, per stall, per annum ..		1.00
Commercial colleges, each per annum	5 to	10.00	Meat washing, per annum.....	10 to	50.00
Car houses (street railway), each per annum.....	5 to	10.00	Meat brining, per annum.....	10 to	50.00
Club rooms, each per annum..	3 to	5.00	Market-houses, small, for not exceeding fifteen stalls, per annum	5 to	15.00
Dairies, for five cows or less, each per annum		1.00	Milk depot, each per annum	5 to	10.00
Dairies, for each additional over five, each per annum..		.75	Medical dispensaries, each per annum		5.00
Dental spittons, each per annum		5.00	Medical colleges, including laboratory and lecture room, per annum	10 to	20.00
Drinking stands or fountains, each per annum.....	3 to	10.00	Police stations, each per annum		25.00
Eating houses, each table per annum		1.25	Pork-houses, per hog killed....		.01
Engine houses, fire department, each per annum....		25.00	Schools, in city buildings, average number of pupils, each per annum..		.05
Fountains, out doors, according to flow of water, each per annum	15 to	100.00	Schools, in private buildings, for fifty pupils or less in number, per annum.....		5.00
Fountains and aquariums, each per annum	5 to	30.00	Schools, for each additional pupil over fifty, per annum		.05
Fountains, soda, each per annum		5.00	Silver plating, per annum.....	5 to	15.00
Fish and game stands, each per annum	5 to	25.00	Soaking tanks cooperage and lumber, each per annum	10 to	25.00
Fire protection, 4" attachment, each per annum....		100.00	Slaughter-houses, per annum	15 to	40.00
Gardens, flower, each per annum	5 to	10.00	Street-car washing, each per annum		3.00
			Street railway, watering station, per annum	10.00 to	20.00

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On motion of Councilman Drane, the said acceptance was received by the Board of Councilmen and ordered to be recorded on its journal.

§ 19. That the right of way so far as the city of Frankfort has power to grant the same, is hereby granted to the Frankfort Water Company to lay two (2), eight (8) or ten (10) inch mains on the new iron bridge now in course of construction, and jointly owned by the city of Frankfort, and the county of Franklin, to connect their twelve (12) inch main at the south end of St. Clair street, with their twelve (12) inch main at the north end of Bridge street; said main to be erected and maintained at sole cost and expense of the Frankfort Water Company, and to be so laid as not to pass through nor in any manner injure or deface the masonry of the abutment of said bridge, and be so located on said bridge as not to damage said bridge structure, nor in any manner interfere with the travel on said bridge; and the board of common council of the city of Frankfort reserve the right to have the water shut off said bridge pipes at the expense of the Frankfort Water Company, whenever they think it necessary for the safety of said bridge structure, or the protection of the public; said mains are to be laid under the supervision of, and whenever the engineer in charge of said bridge may direct; and the Frankfort Water Company., in accepting this ordinance hereby agrees to indemnify the city of Frankfort, and hold it harmless from any loss by reason of the grant herein contained. This ordinance shall not be construed to change, alter or repeal any section of ordinance passed July 28, 1884, and especially that section of said ordinance which requires the Frankfort Water Company to lay and maintain in good working order a fourteen (14) inch

Steam heating boilers, per annum	3 to	10.00
Sediment cocks between boilers and drain or soil pipes, per annum		1.00
Rooms over bars or club rooms, per annum	3 to	5.00
Testing cylinders, in fire extinguisher works, per annum	5 to	10.00
Testing boilers, in boiler yards, per annum	5 to	10.00
Theaters, per annum	10 to	20.00

§ 18. (2) The dates and place of 31 additional fire hydrants authorized by ordinance or resolution of the common council from time to time, at $50 each per annum, are as follows:

2 Fire hydrants on Shelby street, south of Todd	2
1 Fire hydrant on Campbell and Main	1
4 Fire hydrants on Wilkinson, north of Hill	4
1 Fire hydrant on Logan, south of Todd	1
1 Fire hydrant on Taylor Ave	1
2 Fire hydrants on Holmes, east of Sowers	2

September, 1905.

5 Fire hydrants in Bellepoint	5
3 Fire hydrants in Bellepoint	3
2 Fire hydrants in Bellepoint	2
1 Fire hydrant on Logan, north of second	1

December, 1905.

1 Fire hydrant on Barrett Ave	1

February, 1907.

1 Fire hydrant on Fowler St	1

August, 1907.

2 Fire hydrants on Holmes, east of Collins	2
1 Fire hydrant on Wilkinson at powerhouse	1

December, 1907.

1 Fire hydrant on Hoge & Montgomery St.	1

August, 1908.

2 Fire hydrants on G. & V.. pike, east of Gleens C. P	2

June, 1909.

1 Fire hydrant on Third, east of Fowler	1
Total No. Firehydrants	131

June 12, 1913.

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main in the Kentucky river from the city wharf on Steele street to the foot of Ann street. (Oct. 10, 1893.)

ARTCLE 2.

§ 1. Pursuant to the provisions of an ordinance and a contract dated July 28, 1884, between the Board of Councilmen of the city of Frankfort and the Frankfort Water Company, of Frankfort, Kentucky, and especially section 11 thereof, the said Board of Councilmen of the city of Frankfort does now renew the said contract for the rent of fire hydrants for a term of twenty-five years beginning January 1, 1911, upon the terms set out in said contract.

§ 2. The said Board of Councilmen of the city of Frankfort hereby agrees to a modification of section 14 of said contract to this extent, to-wit:

A. A private consumer shall have the right to demand the insertion of a proper standard meter into his service pipe, and the right to pay for water going through said meter according to meter rates; provided, however, that such consumer shall deposit with the water company an amount sufficient to cover the actual cost of such meter and the cost of connecting the same, and shall maintain the said meter; and provided, further, that the said consumer shall pay a minimum charge of one dollar per month.

B. The water company shall have the right to install, at its own expense, a meter upon the service pipe of any customer, and if it shall so install such meter, to charge such consumer for water furnished according to meter rates, exacting a minimum charge of one dollar per month, provided, however, that such minimum charge shall not exceed such consumer's assessed or flat rate per month, unless the assessed or flat rate is less than fifty cents per month, in which case the minimum charge shall be fifty cents per month.

C. The following shall be the schedule of charges for water by meter measurement, payable monthly:

5,000 gal. or less per month	$ .30
For exceeding 5,000 gal. and not exceeding 10,000 per mo.	.28
For exceeding 10,000 gal. and not exceeding 15,000 gal. per mo.	.26
For exceeding 15,000 gal. and not exceeding 20,000 gal. per mo.	.24
For exceeding 20,000 gal. and not exceeding 25,000 gal. per mo.	.21
For exceeding 25,000 gal. and not exceeding 30,000 gal. per mo.	.18
For exceeding 30,000 gal. and not exceeding 36,000 gal. per mo.	.16
For exceeding 36,000 gal. per mo. and up to 5,000 gal. daily	.15
For the 2nd 5,000 gallons daily	.14
For the 3rd 5,000 gallons daily	.13
For the 4th 5,000 gallons daily	.12
For the 5th 5,000 gallons daily	.11

The contract executed pursuant to this ordinance (Article 2) is, in substance the same as the ordinance, and it is not deemed necessary to publish it.

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For the 6th 5,000 gallons daily	.10
For the 7th 5,000 gallons daily	.09
For the 8th 5,000 gallons daily	.08
For the 9th 5,000 gallons daily	.07
For the 10th 5,000 gallons daily	.06
For additional quantities, per 1,000 gallons	.06

§ 3. This ordinance shall become a contract between the Board of Councilmen of the city of Frankfort and the Frankfort Water Company, of Frankfort, Kentucky, upon its passage by the common council of the city of Frankfort and its approval by the mayor, and its acceptance on behalf of the water company by its president authorized thereto by a resolution of its board of directors; but it is distinctly understood and agreed between the parties hereto that the modification of the existing contract between the Board of Councilmen of the city of Frankfort and the said Frankfort Water Company, embraced in section 2 hereof, shall continue only until January 1, 1913, and that the entering into this contract and the change in said contract of section 2 hereof, shall in no way waive or affect any of the rights of either the Board of Councilmen of the city of Frankfort or the Frankfort Water Company, of Frankfort, Kentucky, under said contract, except during said period, and not even during said period if it shall be hereafter determined that the Board of Councilmen of the city of Frankfort was without authority to so modify said contract.

§ 4. The mayor and the clerk of the city of Frankfort are hereby authorized and instructed to sign, upon its acceptance by the Frankfort

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The following is the agreement to install filtration plant, upon renewal of contract:

Frankfort, Ky., Sep. 20, 1910.

To the Honorable Mayor and Common Council of the City of Frankfort:

Pursuant to an agreement with the Mayor, on Sept. 15th., and upon being advised by him that your honorable body desired some assurance from this company that it will, within a reasonable time, construct a filtration plant of modern design to filter the supply of water furnished by it to the city and its inhabitants, the Board of Directors of this company, at a meeting this day held, have authorized and directed me, by the approval of this letter, to inform you that this company will, upon the passage by your honoroble body of the ordinance now pending before it, amended so as to read as per copy of such amended ordinance, hereto attached, agree to have its engineers, who are already engaged upon said work, to at once proceed to the completion of plans and specifications for a filtration plant, and will, within the period of three years from the passage of such ordinance, or sooner if the company shall be able to finance the work, construct a proper filtration plant according to such plans and specifications, and will submit the plans and specifications of such proposed filtration plant for your inspection and advice.

Yours respectfully,
(Signed)
THE FRANKFORT WATER CO.,
By DENNIS H. LONG, V. P.

Frankfort, Ky., Sept. 9, 1912.
Regular Meeting.

General D. W. Lindsey, of the Frankfort Water Co., addressed the council regarding the proposed new filter for the city, and introduced their chief engineer who submitted plans and blue prints of the filter and explained in detail the character of same.

Councilman Stephens moved that the plans as submitted by the Water Co., be accepted.

Said motion was agreed to.

Minute Book (1911) Page 99.

Water Companies—Connections —Contract Renewal—, Liabilities— Licenses— Negligence— Penalties —Rights— Taxation—

Board of Councilmen v. Stone, 22 R., 25.

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Water Company, duplicate copies of this ordinance and contract in the name and in behalf of the Board of Councilmen of the city of Frankfort and to seal the name with the corporate seal of said city, and to deliver one of said copies, so signed and sealed on behalf of it to the Frankfort Water Company, of Frankfort, Kentucky, and to accept the other when signed and sealed by said Frankfort Water Company on behalf of said city, and to cause the same to be properly acknowledged and recorded according to law in the office of the clerk of the Franklin County Court. (Sept. 28, 1911.)

ARTICLE 3.

Sale of Gas Works.

§ 1. This article of agreement made and entered into this thirtieth day of May, 1882, by and between the Board of Councilmen of the city of Frankfort, Ky., of the first part, and the Southern Gas Works Company, of the second part, witnesseth:

That for and in consideration of the stipulation and agreements, and upon the terms and conditions hereinafter expressed, the party of the first part hereby sells and agrees and obligates itself to convey to the party of the second part, or its assigns, all that certain real estate in the city of Frankfort, on Washington and Mero streets, upon which the gas works of said city are situated, being all the lots and grounds belonging to said city, upon which said gas works have been erected and owned by said city, in the management and operation of said gas works, together with all the buildings, machinery and tools, and, excepting all the coal on hand, all materials and supplies, thereon or on hand, belonging to said city and used in or for the manufacture of gas, or in the management or operation of said gas works, and all pipes or pipings, mains, meters, lamps and posts, and other connections, now on hand or laid, or in use by said city in the manufacture and supply of gas from said works to the streets and citizens of said city, together with all the other rights, privileges, franchises, fixtures, appurtenances and incidents said city now has in said property, and the right to manufacture and furnish and sell gas therefrom, and the exclusive right to the use of the streets and alleys, roads and public ways of said city, for the purposes of laying, repairing and properly operating all mains, pipes and other necessary machinery and materials for the furnishing all gas or other illuminating light in said city, and for that purpose the second party and its assigns shall have the right to take up or dig up any pavement, street or roadway in said city, provided it shall replace the same in good condition, and be responsible to said city for any damages that may arise therefrom; and

Art. 2. Owensboro Water Co. v. Owensboro, 25 R., 434.

Franks v. Paducah Water Co., 88 Ky., 467; 11 R., 417.

Paducah Water Co. v. Paducah Lumber Co., 89 Ky., 340; 11 R., 738.

Sec. 1 City Charter and Notes:

Slade, et al. v. City of Lexington, 141 Ky., 214.

Frankfort Water Co. v. Gaines, 21 R., 460.

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any unreasonable delay in replacing the same, the said second party, or its assigns, shall execute to the first party forty (40) bonds of ($1,000) one thousand dollars each, to fall due and become payable forty years from July 1, 1882, bearing interest from July 1, 1882, at the rate of (6%) six per cent per annum, the interest payable semi-annually, on the first day of January and first day of July each year; but said bonds are not to be negotiable or transferable, but are to be held by the first party; and second party, or assigns, can pay off and discharge any one or more of said bonds at any time before maturity, as they may elect, said bonds to be secured by a lien reserved on the real estate, improvements and franchises, to be conveyed hereunder, and also upon all improvements, works, extensions, mains, &c., herein provided to be erected and made by the second party and its assigns, provided herein.

The party of second part, or its assigns, are in a substantial manner to improve the present gas works, adapt them for the manufacture of gas, from both coal and oil, thereby doubling their present capacity, renew all street pipes, meters, &c., that may be necessary to put the works and services in good operating condition, and to extend the mains on the streets of South Frankfort, to the extent of two (2) miles, within one year from this date, with all necessary service and meter connections, to supply all those desiring the use of gas in that district along the lines of said mains.

That from and after the execution of this contract, and the delivery of the property herein to be conveyed by party of the first part to party of second part, or its assigns, the latter are and hereby agree to erect all necessary gas posts and lamps and light and keep in repair and good order all the street lamps now in use, or which may hereafter be erected by the party of the second part by order of the party of the first part; and after the mains are extended in South Frankfort, as hereinbefore provided, the street lamps to be lighted hereunder shall at no time be less than one hundred in number, and all street lights upon streets, in which the second party, or their assigns, shall have their mains, shall be lighted with gas. The street lamps to be lighted nightly, excepting moonlight nights, but including cloudy moonlight nights, on an average of at least eight hours, and the party of the first part agrees to pay to the party of the second part, or its assigns, for so lighting the streets of said city, at the rate of ($24) tweny-four dollars per annum, for each sreet lamp, equal to fourteen candles, now or hereafter erected; and the second party, or its assigns, are and hereby agree and bind themselves to supply consumers of gas at the rate of not exceeding ($2) two dollars per thousand cubic feet; *Provided, however,* That if on July 1, 1887, the average price of gas supplied to private consumers in cities or towns of this State, of the same or less population than that of the city of Frankfort, shall

§ 1. (3) With reference to exclusive franchise of Capital Gas & Electric Light Co. to sell artificial gas, see People's Electric Light & Power Co. v. C. G. & E. L. Co., 25 Ky. Law Rep., 327; 116 Ky., 76.

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be less or more than two ($2) per thousand cubic feet, then and thereafter the price charged to private consumers in Frankfort shall not exceed such average price, to be ascertained July 1, 1887, and also at expiration of each five years thereafter; and the party of the second part, or its assigns, bind themselves to supply the said city and the private consumers with gas at a good quality, and keep the said works in constant operation, reasonable time for repairs and unavoidable accidents excepted. It is further stipulated, and as a part of this contract, that all the property, real or personal, herein sold and to be conveyed to the party of the second part, or its assigns, and all additions and extensions thereof, and all other materials or property to be acquired and used in the operation of said works, and the furnishing and sale of gas or other illuminating light, whether in the hands of the second party, or its assigns, and the stock of the company, owning and operating said works, shall, from and after the execution of this contract, be exempt from the payment of all city taxes to the city of Frankfort; and should it be determined that the party of the first part has not the power to make such exemption from city taxes, then any and all sums which the second party, or its assigns, shall have to pay for city taxes, upon the said property herein attempted to be exempted, shall be added to the sum herein stipulated to be paid for lighting the streets of the first party. The party of the first part further stipulates and guarantees to the party of the second part, or its assigns, the right of way over present bridge between North and South Frankfort, or any bridge that may be hereafter built, or permitted to be built by said city between said parts thereof, or to any suburb thereof, for the purpose of laying thereon and thereover, their mains and other necessary pipes and fixtures for conducting gas over such bridge, or bridges, and the same to be so arranged and laid as not to interfere with the free use and travel over said bridges.

The party of the first part agrees and binds itself to make conveyance of all the property, as required by the terms of this contract, to the party of the second part, or its assigns, so soon as the latter shall execute and deliver the first party forty bonds of ($1,000) one thousand dollars each, as herein described, and deliver full possession of all the property and right herein mentioned to the second party, or its assigns, on or before June 30, 1882.

And we, the undersigned, Henry C. McDowell and H. D. Fitch, in consideration of the acceptance and execution of this agreement and contract by the Board of Councilmen of the city of Frankfort, hereby guarantee that the party of the second part, or their assigns, shall have authority to execute, and shall fully and legally execute the same by or before the 30th day of June, 1882.

Signed by

H. C. McDOWELL,
H. D. FITCH.

Attest:
F. V. GRAY.

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In witness to all of which the party of the first part, by its mayor, and under its corporate seal, as directed by ordinances therefor, and the party of the second part, by its vice-president, have hereunto signed their names the date first above mentioned.

THE BOARD OF COUNCILMEN OF THE CITY OF FRANKFORT,
Per EDMUND H. TAYLOR, JR., Mayor,
SOUTHERN GAS WORKS COMPANY,
Per H. D. FITCH, Vice-President.

Attest:
F. V. GRAY, City Clerk.

GAS CONTRACT.

H. C. McDowell, President of the Capital Gas and Electric Light Co., appeared before the board and presented an assignment from the Southern Gas Works Company of the contract in writing between the last named company and this board, of date May 30th, 1882, which said assignment reads as follows, to-wit:

LOUISVILLE, KY., June 26th, 1882.

For value received the Southern Gas Works Company hereby assigns the benefits of this contract to the Capital Gas and Electric Light Company, and authorizes it as its assigns to execute and deliver the forty bonds of one thousand dollars each and obtain and receive the deed of conveyance from the board of Councilmen of the city of Frankfort, as provided for in this contract.

In witness whereof the Southern Gas Works Company, by H. D. Fitch, its Vice-President, hereunto attaches its name and affixes its corporate seal, this June 26th, 1882.

SOUTHERN GAS WORKS COMPANY,
[Seal] By H. D. FITCH, Vice-President
L. T. ROSENGARTED, Sec'y and Treas.

Gen. D. W. Lindsey, on behalf of the Capital Gas and Electric Light Company, presented the following, to-wit:

Whereas the Board of Councilmen of the city of Frankfort did make and enter into a contract, of date May 30th, 1882, with the Southern Gas Works Company, by which said board sold to said Gas Works Company the gas works, property, fixtures, improvements, mains, &c., then belonging to said city of Frankfort, and situated therein, and the said Gas Works Company did, among other things, bind and obligate itself, or assigns, to extend the said gas mains and pipes across the bridge, over Kentucky river in said city, and into South Frankfort and lay therein not less than two miles of gas mains, and said board guaranteed to said Gas Works Company and its assigns the right of way across said bridge over Kentucky river, from North to South Frankfort, to lay and conduct thereon its said mains and

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pipes, and said Gas Works Company having assigned and transferred the benefit of said contract to the Capital Gas and Electric Light Company, and the latter company, having been placed in possession of said gas works property, is now in good faith performing the obligations of said contract by improving, enlarging and extending said gas works and mains, and is now ready and desirous of extending and conducting said mains across said bridge and into South Frankfort, and to that end has obtained by order of the Franklin County Court the right and consent of said county and county court, as a stockholder in said bridge, or the bridge company, to which said bridge now belongs, to so extend and conduct said mains across said bridge, and the said city of Frankfort of Board of Councilmen thereof being the owner or owners of all the stock in said bridge or bridge company, not owned by said county or county court, now, therefore,

Be it ordained by the Board of Councilmen of the city of Frankfort:

That the said Capital Gas and Electric Light Company is hereby authorized and permitted to extend and connect said mains across said bridge and use and maintain the same thereon, and may attach the same to the timbers and frame-work thereof, so as not to obstruct the free use and travel over the same, and so as not to injure or weaken the same.

Authorizing New Contract With Capital G. & E. L. Co.

§ 2. That the mayor be and is hereby authorized for and on behalf of the Board of Councilmen, to contract with the Capital Gas & Electric Light Company for a period of twelve years, beginning January 1, 1911, for the present number of 96 arc lights that are now in use on the streets of the city of Frankfort, or the same number of arc lights under any improved system of arc lighting that is now in use or may hereafter be invented, giving an equal candle power, and all additional lights of the same character, kind and quality, that may be ordered or erected hereafter by the said Capital Gas & Electric Light Company and maintain and lighted by it; and to agree to pay for the same, on behalf of the Board of Councilmen, at the rate of $68 per light per annum, payable semi-annually on January the 1st and July 1st of each year.

§ 3. Be it further ordained by the common council that the mayor on its behalf as aforesaid shall have provided in the contract for lighting the streets of the city of Frankfort, that at the option of the Board of Councilmen, the Capital Gas & Electric Light Company shall erect and maintain on its arc lines and only at points between the present street arc lamps, and number of 80 Watt Tungsten street

§ 2. (3) Capital Gas & Electric Light Co., (now Kentucky Public Service Co.), has exclusive franchise for manufacture and sale of artificial gas.

People's Electric Light & Power Co. v. C. G. & E. L. Co., 116 Ky., 76; 25 R., 327; Board of Councilmen v. Gas Co., 29 R., 1114.

§ 3. (3) Franchise Rights—Consolidation—Contract Renewal, etc.—Elaborate discussion. Gathright v. Byllesby, 154 Ky., -06.

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series lamps for a period of twelve years from January 1, 1911, and shall agree to pay for the same the sum of $30 per lamp per annum, and at the same proportionate rate for a greater or lesser power Tungsten lamp, payable January 1st and July the 1st of each year.

§ 4. Be it further ordained that the mayor on behalf of the common council shall contract with said Capital Gas & Electric Light Company for electricity and gas to be furnished to private consumers of the city of Frankfort for a period of five years from date of passage of this ordinance at the following rates:

The lights to private consumers shall be reduced to a sliding scale and based on a maximum rate to exceed 15 per kilo watt by meter measurement, but a minimum bill of $1 per month will be charged when the consumption of current does not exceed $1 per month at the rates on the sliding scale herein provided for.

The sliding scale of prices shall be as follows:

1 to 6 kilo watts 15c per kilo watt.
6 to 30 kilo watts 14c per kilo watt.
30 to 90 kilo watts 12c per kilo watt.
90 to 120 kilo watts 10c per kilo watt.
120 to 200 kilo watts 8c per kilo watt.
200 kilo watts and over 7c per kilo watt.

§ 5. For illuminating gas per thousand cubic feet, the rates shall be $1.75 gross, with a discount of 15c per thousand cubic feet if payment is made on or before the tenth day of the month following the consumption all 25c meters are to be changed so as to correspond with the rate herein mentioned. For fuel gas the rate shall be $1.20 per thousand cubic feet, with a deduction of 20c per thousand cubic feet if bill for same is paid on or before the tenth day of the month following the furnishing thereof. But this provision is not to apply

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§ 4. (1) Pursuant to this ordinance (Article 4) contract between City & Capital Gas & Electric Light Co., conforming thereto, was signed by the Mayor and the officials of said company on April 19, 1911, and being almost a verbatum copy of the ordinance it is not deemed necessary to publish it.

ABSTRACT CONTRACT OF APRIL 19, 1911.

LIGHTS—CITY OF FRANKFORT.

$68.00 per light (arc) payable semi-annually.

$30.00 per light (80 watt tungsten) payable semi-annually.

Private Consumers.

Lights to private consumers shall be reduced to a sliding scale and based on a maximum rate not to exceed 15 per kilo watt by meter measurement, but a minimum bill of $1.00 per month will be charged when consumption of current does not exceed $1.00 per month at rates on the sliding scale herein provided for.

Sliding Scale.

1 to 6 kilo watts 15c per kilo watt.
6 to 30 kilo watts 14c per kilo watt.
30 to 90 kilo watts 12c per kilo watt.
90 to 120 kilo watts 10c per kilo watt.
120 to 200 kilo watts 8c per kilo watt.
200 kilo watts and over 7c per kilo watt.

Illuminating Gas.

$1.75 (gross) per 1000 cubic feet.

15c per 1000 cubic feet discount if payment is made on or before 10th day of month following the consumption.

All 25c meters are to be changed so as to correspond with the rate herein mentioned.

Fuel Gas.

$1.20 per 1000 cubic feet, with a deduction of 20c per 1000 cubic feet if bills for same is paid on or before 10th day of month following consumption.

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to the city which pays the net prices for its gas and illuminating light under this contract on the 1st of January and the 1st of July of each year.

§ 6. The schedule of rates heretofore made by and existing between the Capital Gas & Electric Light Company and the Board of Councilmen of the city of Frankfort for its street arc lights, gas and electric lights for private consumers, in consideration of the execution of the contract herein provided for, are to be held as cancelled from the date of its approval.

§ 7. Said mayor is hereby authorized to draft or procure to be drafted a written contract embodying the provisions of this ordinance, which shall be signed by the president of the Capital Gas & Electric Light Company, and attested by its secretary, and by the mayor of the city of Frankfort and attested by its city clerk, and when the said contract shall have been duly executed as herein provided for, the same shall then become of full force and effect. (April 10, 1911.)

ARTICLE 4.

Electric Light Franchise.

§ 1. That there be let and granted, according to law, and this ordinance is to so let and grant, the franchise and privilege to construct, maintain and operate in the city of Frankfort, Kentucky, and over and along the streets and public ways thereof, an Electric Light Plant for the purpose of providing the said city and its inhabitants, with electric power and lights of all kinds and descriptions.

§ 2. The said franchise and privilege shall continue for the period of twenty (20) years from and after the time the same shall take effect.

§ 3. The person or corporation owning or exercising the franchise or privilege aforesaid shall have authority (under the supervision of the mayor and the Street Committee of the common council) to erect such poles and to stretch such wires as may be necessary in the transaction of its business and supply electric lights to consumers and customer. Such person or corporation may charge their customers the following rates, viz.: for each acr light not exceeding seven ($7) dollars per month for each incandescent light not exceeding forty (40c) cents per month.

§ 4. No person or corporation acquiring such franchise or privilege may assign or transfer same, and shall be entitled to enter into any arrangement or agreement with any person or corporation owning any other electric line in the city by which electric lights are now furnished or may be furnished.

(1) Franchise granted by this ordinance (article 4) valid. 116 Ky., 76; 25 R., 327; 29 R., 1114.

(2) City's right to forfeit for failure to install plant waived from time to time—last date No. 14, 1910. For right of municipality to waive such rights. See Cumb. Telp. & Telg. Co. v. City of Hickman, 129 Ky., 220.

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§ 5. Said person or corporation acquiring such franchise or privilege shall construct said electric light system within six months from the time such grant or such franchise or privilege shall become effective.

§ 6. As soon as may be practicable after the approval and publication of this ordinance, it shall be the duty of the mayor to advertise for four times in some newspaper published in the city of Frankfort, Ky., authorized by law to publish same, that bids will be received for the before mentioned franchise or privilege to the highest and best bidder subject, however, to the approval of the common council such advertisement shall reserve the right to reject any and all bids.

§ 7. The bidder to whom such franchise or privilege shall be granted, shall pay the amount of said bid in cash to the city treasurer within ten (10) days after the same shall have been approved by the common council; and no bid shall be received or considered by the mayor unless such bidder shall deposit with his bid a check payable to the treasurer of the said city, for the sum of one hundred ($100) dollars, and which shall have been certified by some bank doing business in the city of Frankfort, and which sum of money shall be treated as part payment by the successful bidder; in case he shall comply with his bid; and if he shall not, it shall be treated and retained as liquidated damages due to the said city. Checks deposited by unsuccessful bidders shall be at once returned to them, respectively. (Aug. 13, 1901.)

ARTICLE 5.

Natural Gas Franchise.

§ 1. That the mayor be, and he is hereby authorized, empowered and directed to advertise for sale to the highest and best bidder, in the manner prescribed by the constitution and statutes of the Commonwealth of Kentucky, the franchise, right and privilege to construct, lay, operate and maintain through and in the streets, sidewalks, avenues, alleys and public ways and places of the city of Frankfort, Kentucky, a system of pipes for the conveyance, distribution and sale of natural gas for lighting, heating, fuel, manufacturing and power purposes, for the term of twenty (20) years from the time same shall take effect. Notice of the time and place of said sale shall be published in some newspaper of the city of Frankfort for at least ten days prior to the date of sale. Said sale shall be made at public outcry to the highest and best bidder, and the council does hereby reserve the right to reject any and all bids.

§ 2. In the event of the acceptance of the highest and best bid, the successful party or parties making said bid, shall be declared the purchaser or purchasers of said franchise, hereinbefore described, and said franchise shall thereupon be declared sold and granted to said purchaser or purchasers, and his or their associates, successors and

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assigns, for the considerations set forth in said bid; subject, however, to the following restrictions, terms and conditions, to-wit:

A. When the purchaser of this franchise shall enter upon any street, sidewalk, avenue, alley or public way or place for the purpose of laying, repairing or maintaining said pipes, he shall prosecute the work with due diligence, and shall dig and close up all trenches as rapidly as possible, and shall leave the streets, sidewalks, avenues, alleys and all public ways and places in the same conditions as when he entered the same for the purpose of construction or reconstruction, or maintenance or repair. In the event said purchaser fails, refuses or neglects to comply with the above provisions, the city of Frankfort shall have the right, after notice in writing having first been given to said purchaser, or one of his associates, successors or assigns, or to any contractor, sub-contractor, officer, agent or employee in said city, representing him or them, or any of them, or in the event that none such be in said city, by letter duly stamped, addressed and mailed to the last known address of said purchaser, or of any one of his associates, successors or assigns, to do said work or make said repairs, and the cost and expense thereof shall be paid to the city of Frankfort by said purchaser, or the owners of said franchise within ten (10) days from the date on which an itemized bill is presented to said purchaser or owner.

B. In the construction, reconstruction, maintenance or repair of any of said pipes or lines, said purchaser shall comply with all the laws and ordinances of the city of Frankfort as to placing lights or danger signals, and shall be liable for any and all damage that may arise by reason of their failure or neglect to comply with such ordinance.

C. Said purchaser shall hold and save the city of Frankfort harmless and free from any liability or claims for damages arising from, or by reason of the entry or occupancy of the streets, sidewalks, avenues, alleys or public ways or places of said city, in constructing, reconstructing, maintaining or repairing said system of pipes, and shall defend without cost of the city any action in law or equity for the enforcement of such claims, and shall assume and pay all judgments obtained as the result of such actions.

D. Said purchaser or his successor shall not charge during the existence of said franchise, a maximum rate to exceed fifty (50c) cents per one thousand (1,000) cubic feet of gas, and said purchaser shall allow a discount of ten (10 per cent) per cent on all gas furnished to the city buildings, public and parochial schools, hospitals, churches and public library, from the lowest net rate charged other consumers of gas in said city, using it for lighting and heating buildings in a similar manner.

Mayor's report of sale to Hazelrigg & Hazelrigg filed and ratified by council May 26, 1913. Minute Book (1913), page 97.

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E. Said purchaser shall lay on all paved streets of said city two (2) lines of pipe, one upon each side thereof. Said lines of pipe shall be laid between the curb and sidewalk on such paved streets, where the same may be done. If, however, it is impracticable to lay said line of pipe between the curb and sidewalk, as aforesaid, the same shall be laid under the paved portion of the street at a distance of not more than four (4) feet from the curb thereof, and the said purchaser shall not, without the consent in writing of the mayor and superintendent of streets of said city, lay said pipes across the paved streets of the city, except at street intersections.

F. Said purchaser shall begin the work as soon as practicable and shall complete the same entirely on or before the 31st day of December, 1913.

G. The word "purchaser," as used in this ordinance, shall be construed to include any and all purchasers and owners in their associates, successors and assigns.

H. The work of constructing, reconstructing, maintaining or repairing said pipes shall be under the supervision of the mayor and city engineer. (April 26, 1913.)

ARTICLE 6.

RAILROAD COMPANIES.

Kentucky Midland Railway Co.

§ 1. In 1888, the council submitted to a vote of the people the question of subscribing one hundred thousand dollars to the capital stock of the Kentucky Midland Railway Company, and, upon an election being held the subscription was authorized. Various resolutions were passed from time to time during said year, directing the issual to the city of its certificates of stock in said company, and reserving certain rights relative thereto. But as all these rights, as well as the city's stock subscription, were lost by the failure of said company, and resulting litigation, it is not worth while to burden this compilation with it.

The only thing that appears on record, granting any right of way or privilege by the city, to said company is of date July 11, 1888, and is as follows:

"On motion the mayor was directed and empowered to grant the Kentucky Midland Railway Company, the right of way through property owned by the city of Frankfort near the colored school building."

Art. 6, Proposition of Kentucky Midland Railway Co., for submission of question of stock subscription to vote June 6, 1888. See Minute Book (1885), page 383.

Election held June 27, 1888. Result affirmative 1011, negative 10.

Report of election commissioners filed June 28, 1888. See page 395.

Order for subscription to stock $100,000, July 6. 1888. Page 400.

Order for issual of bonds July 20, 1888, page 411.

The name "Kentucky Midland Railway Co.," has been changed to "Frankfort & Cincinnati Railway Co."

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ARTICLE 7.

Louisville and Nashville Railroad Co.

§ 1. A proposition from the Louisville & Frankfort Railroad Company through their president, Jas. Guthrie, Esq., was submitted to the board, and the council having fully examined said proposition do hereby approve and accept the same—and the mayor is directed to draw upon the company as proposed for $900—and it is now ordered that said written proposition be entered on the minutes of the proceedings of this board of this date, and the same follows in these words and figures, viz.:

The railroad company will pay for sinking and resetting the water pipes and the city of Frankfort may have the work done.

The company will also pay for sinking and resetting the cistern at Washington street and the city of Frankfort may have it done.

The railroad company will proceed and finish the grade and macadamizing Broadway upon the plan furnished by the city of Frankfort and cross streets and alleys intersecting the same.

The city of Frankfort may proceed and finish the sewer to Hodges' corner at a cost not exceeding $———, and may now draw for $900 at four months and balance at four months after the work is finished.

§ 1. (1) Resolved by the Board of Trustees of the town of Frankfort that the right of a way be and the same is hereby granted to the President and Managers of the Lexington & Ohio Railroad Company to locate their road through any of the streets and alleys of the town to the full extent that may be necessary to construct said road, and the same when located by said company for the purposes aforesaid shall forever be and remain in perpetuity to the said President and Managers, and their successors in office without any tax charge, duty, let or hindrance upon the part of the trustees or their successors in office.

May 28, 1832.

(2) Whereas, this board did on the 28th day of May, 1832, give their consent to the Lexington & Ohio Railroad Company, the right of way through any of the streets and alleys of the town and whereas, the said company made their election to pass through Broadway street and the said street was subsequently graded and macadimized by an order of the Board of Trustees in conformity with the grade made by the engineer of said railroad company, which grading and macadamizing so made under said order cost upwards of one thousand dollars, and the owners of property fronting on said street made files and completed their pavements in conformity with said grade and it being now represented to this board that the said company have made a different survey and are now engaged in filling and grading said street in a manner which it is believed will be of great injury to the town and particularly to the property of the citizens—Resolved, therefore, That the Town Marshal be directed to interpose his authority and prevent the contractor from progressing with the fill on High and Broadway streets until the further order of this board.

Aug. 21, 1835.

(3) On the application of the Lexington & Frankfort Railroad Company permission is hereby granted to said company to use the grounds on Broadway street opposite the lot owned by Thos. N. Lindsey (in the event said company may purchase the same) as would be used as a sidewalk, in placing rails on the same, and using it for the cars of said company, and may project the roof of any building which said company may erect on said lot over said sidewalk, and said company are also hereby authorizde to make their railroad near the corner of the house now owned and occupide by the Catholic Church on the corner of Broadway and High streets upon the express condition that said company obtain the leave of the owners of said Catholic church lot, and this order is made upon the further condition that said company always keep open and in good repair the present sewer which runs along the side of said Lindsey's lot on Broadway street.

May 19, 1849.

(4) Resolved, That in lieu of the privileges heretofore given to the Lexington & Frankfort Railroad Company, for the running of said road through Broadway street said company is hereby permitted by this

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The railroad company to have the privilege of walling up with stone, the railway from the bridge as far as necessary toward Washington street and turning an arch across Wilkerson.

Repairing of streets in town to be borne by city of Frankfort after the work is paid for by the company. (May 1, 1852, Minute Book (1849), page 177.)

§ 2. That the Louisville & Nashville Railroad Company be, and it is hereby authorized and permitted to construct its proposed new passenger station, platforms, roadways, approaches and appurtenances on Broadway between High street and Ann street, and on and over the end of Elk alley, south of Broadway and north of Main street; and for this purpose the city by this ordinance hereby expressly vacates the use for public purposes of so much of said Elk alley, and gives and grants the unrestricted right of entry upon and occupation of said street or streets as may be necessary for the purposes of the railroad company in this ordinance contained; the improvements therein contemplated extending the entire distance from the west line of High street to the east line of Ann street, about ninety-five feet south of Broadway. Also to erect a covered passenger platform four hundred and twenty-three feet long, and fourteen feet wide on said Boardway (leaving a public passway on the north side thereof suitable for ordinary vehicles), and to extend two pas-

board to extend their building to be erected by said company on the lot lately purchased by them from Lindsey & Wersiger ten feet in front of said lot and extending that width into and on said Broadway street. Said company, however, to fix and forever keep in good repair the sewer running in front of said lot. Provided, however, that the order heretofore passed by this board authorizing the projection of any roof of any building which said company should erect on said lot, and authority given to run inside of the northeast pillar of the market house be and are hereby rescinded and the privilege given by this resolution is in lieu of said recited owners. June 25, 1849.

(5) The Lexington & Ohio Railroad Company was incorporated by an act of the Legislature approved January 27, 1830. After securing the rights granted by Section 1 of this Article, it failed. In 1848 the Legislature passed an act creating a new company styled the "Louisville & Frankfort Railroad Company." It was authorized to construct a railroad to some point on the Ohio River, commencing at St. Clair street. "This company succeeded to, and became invested with all the rights of way and other privileges and franchises belonging to the late Lexington & Ohio Railroad Company (9 B. M. 470)." See L. & F. R. R. Co. v. Brown, etc., 17 B. Mon., 764. By act of Legislature approved Feb. 28, 1848, the Lexington & Frankfort Railroad Company was authorized to construct a railroad from the city of Lexington to St. Clair street in said town of Frankfort, and to contract with the Louisville & Frankfort Railroad Company for a junction at that point, and it further provided, that the "Frankfort & Louisville Railroad Company and the Lexington & Frankfort Railroad Company when said roads shall be completed, shall be run and used as a continuous road from Lexington to Louisville and from Louisville to Lexington." In the case of Commonwealth v. City of Frankfort, etc., it is stated in the opinion, that the Louisville & Nashville Railroad Company, is the successor of the Lexington & Frankfort Railroad Company. 13 Ky. Law Rep., 705; 92 Ky., 149.

(6) On May 10, 1870 an agreement was entered into between the L. & N. Railroad Company and the City of Frankfort and County of Franklin, with reference to putting a floor in the railroad bridge at the foot of Broadway street and providing for the use of said bridge by the public. The contract was accepted by both the City Council and the Court of Claims, but it was never recorded. The county minute book, by endorsement on the margin, shows that it was not left with the clerk. An effort was made to find it or get a copy for publication in this volume but without avail. (See (1870) Minute Book, also County Court Order Book No. 2, page 161.

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senger tracks two hundred and ten feet west of the west line of Ann street on Broadway; and thereafter to maintain repair, use and operate fully without let or hindrance the aforesaid passenger station, roadways, platforms, tracks, sidings, crossovers and other appurtenant facilities in, upon and over all said streets and alleys.

A plan of the proposed improvements more fully showing the location, extent and character of said proposed improvements is attached hereto and made a part hereof, dated Feb. 3, 1904, and marked "Proposed Passenger Facilities at Frankfort, Ky.," and identified by the signature of the fourth vice-president of the Louisville & Nashville Railroad Company. (Sec. 2, Ordinance of July 12, 1905.)

ARTICLE 8.

American Telephone and Telegraph Company.

§ 1. That permission be and the same is hereby granted to the American Telephone and Telegraph Company of Kentucky, its successors and assigns, to erect, operate and maintain its line of telephone and telegraph upon, along, over and under such of the streets, alleys and bridges of the city of Frankfort as its business may require, provided that all poles shall be straight and neatly shaven and painted.

§ 2. All poles erected by virtue of this ordinance shall be located and erected under the direction and supervision of the Committee upon Streets and Alleys.

§ 3. Said company shall replace and properly relay sidewalks or streets that may be disturbed in constructing its said lines and upon the failure of said company so to do after twenty (20) days written notice of said city may repair the portion so disturbed and collect the cost so incurred from the said company.

§ 4. In consideration of the rights and privileges herein granted said company shall furnish free of cost to said city space for its fire alarm and police wires upon all poles erected pursuant of this ordinance.

§ 5. Nothing in this ordinance contained shall be so construed as to grant unto said company an exclusive right upon said highways or to prevent the grant of like privilege to other individuals or companies for like purposes.

§ 6. Said company shall indemnify said city against and assume all liability for damages which may arise or accrue to said city from any injury to persons or property from the doing any work herein authorized or the neglect of said company or any of its employees to comply with any ordinance relative to the use of the streets of said city, and the acceptance of this ordinance by said company shall be an agreement by it to pay to said city, any sum of money for which said city may become liable for or by reason of such injury.

§ 7. Said company shall at all times be subject to ordinance now in existence or which may hereafter be passed relative to the use of

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public streets or other public places by telephone and telegraph companies. (Aug. 14, 1895.)

ARTICLE 9.

East Tennessee Telephone Co.

§ 1. The petition of Mr. C. E. Taylor for permission to the —— ——— Telephone Company, to erect telephone poles on different streets of the city and to carry it across the city bridge, was presented and granted. (April 11, 1881.)

ARTICLE 10.

Frankfort Telephone Co.

§ 1. That there shall be sold to the highest and best bidder on each, for a term of twenty (20) years, one or more franchises to construct, maintain and operate a tepephone system for public and private use in the city of Frankfort, Ky., including the necessary conduits, subways, manholes, wires, poles and other equipment; and also the right of way over, along, across, under through and in the highways and other public places in said city for the purpose of placing the subways, manholes, poles and other equipments necessary to construct, maintain and operate said telephone system in the city of Frankfort, in accordance with the conditions, term and limitations of this ordinance.

§ 2. That it shall be the duty of the mayor of Frankfort, as soon as practicable after the passage of this ordinance, to offer said franchises, one at a time, at public auction to the highest and best bidder at such place as he may name in the advertisement, hereinafter mentioned, after having given notice thereof by advertisements for thirty (30) days in a daily newspaper published in the city of Frankfort of the time, place and terms of sale; and said mayor shall accept the highest and best bid for each franchise, and report the same to the council for its approval; and the common council shall have the right for and on behalf of the city to reject any and all bids for such franchises; and in case the bids reported by said mayor shall be rejected, it shall again be the duty of said mayor and from time to time after to advertise, as aforesaid, and to offer such franchises for sale until

Art. 9. (1) The East Tennessee Telephone Co., bases its privilege to do business in the City of Frankfort upon this record. The facts and the extent of its legal rights are set forth in an opinion of the Court of Appeals in the case of East Tennessee Telephone Co. v. Board of Councilmen of the City of Frankfort reported in 141 Ky., 588, and in response to a petition for rehearing, reported in 143 Ky., 86.

Art. 10. An ordinance passed January 10-11, 1899, granting the privileges to W. W. Longmoor and others, to conduct a telephone system in the City of Frankfort, and afterwards assigned by him to The Frankfort Telephone Co. and under which that company operated until the present franchise (Ordinance of May 3, 1909) went into effect was held not to grant a franchise. See Frankfort Telephone Co. v. Board of Councilmen of the City of Frankfort. 125 Ky., 59; 30 Ky. Law Rep., 885.

The report of the sale of the above franchise for 20 years, to the Frankfort Telephone Co., was filed by the Mayor, June 14, 1909, and approved by the Common Council. See Minute Book (1906), page 322.

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satisfactory bids therefor shall be received and approved. The said sale shall be for cash to be paid upon the approval of the sale by the common council, and upon said approval and payment, the franchise herein ordered to be sold shall thereupon immediately vest in such purchasers.

§ 3. That any person, firm or corporation owning or exercising such a franchise may assign or transfer same.

§ 4. That said telephone system be constructed in the public ways and places of the city of Frankfort under the supervision of the Street Committee of the common council, the mayor and city engineer. Said company or corporation shall install without delay a certain energy switch board of the highest efficiency. They shall install from time to time the most modern apparatus and instruments of the highest efficiency and improvement, and all instruments shall be suitable for long distance service.

§ 5. That whenever it shall be necessary to disturb the public ways or places for the construction, repair or maintenance of said system, the said ways or places shall be restored to their former good condition at the expense of the owner of said system, and all rubbish shall be removed as promptly as possible. Any person, firm or corporation operating under such franchise shall erect its line of poles and wires wherever the same is practicable in the alleys of the city, provided that if said owner of said franchise has already a line of poles and wires upon the streets of the city. The same may remain as now located, except as the same shall be removed by order of the council to other places, or in conduits the exercise of its police power.

§ 6. That until 1,200 telephones are installed and connected with the exchange of said system and in operation, in the city of Frankfort, the rates to be charged by the person, firm or corporation owning or exercising one of said franchises for use of telephones shall not exceed $1.50 per telephone per month for residence telephones, nor $2.50 per telephone per month for other telephones; and after 1,200 telephones have been installed, in the city of Frankfort, connected with the exchange and in operation as parts of said system and until 2,000 telephones are thus installed, the rates to be charged for use of telephones shall not exceed $2 per month for residence telephones, nor $3 per telephone per month for other telephones; and after 2,000 telephones shall have been installed, in the city of Frankfort, connected with the exchange and in operation as parts of said system and until 3,000 telephones are thus installed, the rates to be charged for use of telephones shall not exceed $2.50 per telephone per month for residence telephones, nor $3.50 per telephone per month for other telephones; if the total number of telephones connected with the exchange and in operation as part of the system, in the city of Frankfort shall exceed 3,000 telephones, the person, firm or corporation owning or exercising one of said franchises shall be entitled to charge an increased rate of fifty cents per telephone per month for each 1,000 subscribers or fraction thereof.

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Within the limitations herein above fixed the person, firm or corporation owning or exercising one of said franchises shall have the right to charge such rates for telephone service as to him or it may from time to time seem fit. Said person, firm or corporation shall have the right to charge a rate not exceeding fifty cents per month for each additional desk telephone.

§ 7. That any person, firm, corporation or purchaser of such a franchise shall within ninety days after securing such franchise begin the construction of said plant and within six months after securing such franchise begin the operation of said telephone system.

§ 8. That if it should so desire, the city of Frankfort shall have the right to use any of the poles of said system for its fire alarm and police wires in such a manner as not to interfere with the business of the person, firm or corporation owning or exercising one of the franchises herein ordered to be sold. In case the city shall desire to exercise this privilege, it shall be its duty to give the owner or operator of said franchise ten (10) days' written notice of its desire, specifying the street or streets upon which the poles desired to be used for the service are located.

§ 9. The person, firm or corporation owning or exercising one of the franchises herein ordered to be sold, shall be under obligations and shall be bound to protect and hold harmless the city of Frankfort, and its inhabitant from all damage and liabilities by reason of the construction and operation of this system.

§ 10. Any person, firm or corporation owning or operating under such franchise shall furnish to the city officers and employees free of all charge except tolls for long distance service, telephones, one in the office of the city clerk, one in the headquarters of the police department, one at the fire department and one at the city workhouse.

§ 11. That should the development of the telephone art evolve such use for telephones, other than the use of it for the transmission of ordinary speech, or if special service is desired by users of telephones connected with said system, the right is hereby granted the person, firm or corporation, owning or exercising one of the franchises herein ordered to be sold, to charge for such use or special service reasonable prices to be agreed upon by patrons and the person, firm or corporation owning or exercising one of the said franchises. (May 3, 1909.)

ARTICLE 11.

Postal Telegraph and Cable Co.

§ 1. That the right and privilege of erecting poles and stretching wires in and over the streets and alleys and St. Clair street bridge of the city of Frankfort, necessary to the establishment, operation and maintenance of a telegraph system connecting said city with other towns and cities is hereby granted to the Postal Telegraph Cable Co.,

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and its successors, subject to the limitations and restrictions hereinafter set out and provided.

§ 2. The said Postal Telegraph Cable Company shall furnish the mayor and street committee with a statement in writing of the streets, alleys and parts over which they propose to stretch their wires in establishing their system in the city of Frankfort, but said streets and alleys shall not be used for such purpose unless the mayor and street committee consent thereto, and all subsequent changes or additions to said system in said city shall be submitted to and receive the approval of the street committee in like manner as the privilege herein granted has been given.

§ 3. Should the said Postal Telegraph Cable Company or any successors of said company lease, rent or consolidate so much of said system as is located in the city of Frankfort with any other corporation, person or association of persons engaged in the same or like business or shall enter into any pool, combine or trust with any other corporation, person or association of persons for the purpose of maintaining rates to be charged for service performed by said company, then all the rights and privileges granted and conferred upon the Postal Telegraph Cable Co., or any on holding under said company shall cease and become absolutely null and void and all poles, wires or other property located in the streets and alleys in pursuance of this ordinance shall at once be removed by the owner or lessee of the same unless done by the consent of the common council.

§ 4. The said Postal Telegraph Cable Company shall accept the provisions of this ordinance in writing within the thirty days after the date of its passage, and said exceptance shall be entered upon the journal of the board of common council and copied upon the ordinance book of the city of Frankfort immediately following said ordinance when recorded.

§ 5. Nothing in this ordinance shall be construed as a forfeiture or waiver by the city of Frankfort of any of its rights and privileges to require telegraph and telephone wires to be placed under ground or to make any proper and necessary regulations of poles and wires in the streets and alleys of the city.

§ 6. The Board of Councilmen of the city of Frankfort reserves the right at any time to amend or repeal this ordinance and the contract thereinunder, and to use said company's poles for fire alarm purposes if desired by said city.

§ 7. This ordinance shall take effect from and after its passage. (July 1, 1895.)

Sec. 4. Acceptance:

The terms and provisions of an ordinance passed by the Common Council of the City of Frankfort, Ky., June 11, and 27, 1895, and approved by the Mayor of said city July 1, 1895, of which the foregoing is a copy, are hereby accepted by the Postal Telegraph Cable Company, this 19th day of July, 1895.

POSTAL TELEGRAPH CABLE CO.,
By WM. H. BAKER, Vice-President.

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ARTICLE 12.

Western Union Telegraph Co.

§ 1. State of Kentucky, that the Western Union Telegraph Company, its successors and assignees are authorized to erect and maintain, on the streets, alleys and public ways of said city, the poles and wires and fixtures necessary for the purpose of suffering the citizens of said city, and to the public, communication by telegraph or other improved electrical device, such use to be and continue upon the terms and conditions hereinafter started.

§ 2. The location of poles and lines now in use, is hereby approved, and the location of all poles and lines hereinafter to be erected, and any change in the location of all poles and lines now in use, or extension thereof, shall be under the direction and control of the council of said city.

§ 3. Said poles and wires shall be placed and maintained, so as not to interfere with travel of said highways, and said company shall hold said city free and harmless from all damages arising by reason of any abuse of said occupancy, this grant is made, and is to be enforced, subject to such reasonable regulations, and ordinances of a police nature, as said council of said city is authorized, and sees proper at any time to adopt, not destructive to the rights herein granted.

§ 4. The rights of use herein given shall not be exclusive, and the council of said city reserves the power to grant a like right of way to any other telegraph company; the same, however, not to interfere with the reasonable and proper exercises of the privileges herein granted.

§ 5. In consideration whereof, said Western Union Telegraph Company shall, and by the acceptance of this ordinance does agree to allow the council of said city to attach at any time to the top cross-arm of any of said poles where practicable, the municipal fire alarm and police wires, and said poles are hereby made a municipal instrumentality for that purpose, provided however, said attachment shall be so made as to not to interfere with said company's use, and said attachment shall be made and maintained under the direction of said company's manager in said city of Frankfort,. The said company shall, and will furnish for the said city of Frankfort, the use of its poles for the attachment thereto of its fire alarm boxes, without charge to the city.

§ 6. This ordinance shall take effect on and after its passage, and

(Art 12).

To the Honorable Council.

Gentlemen:—The Western Union Telegraph Company hereby accepts your ordinance passed the 14th day of August, 1895, and files hereby, this its unconditional acceptance thereof, in the office of your clerk.

Respectfully,
THE WESTERN UNION TELG. CO.,
By CHAS. NEWTON, Operator-Mgr.

State of Kentucky,
City of Frankfort.

I, Richard Tobin, Clerk of the City of Frankfort, do hereby certify that said written acceptance, of which the above is a true copy, was filed in my office this 16th day of Sept. 1895.

RICHARD TOBIN,
City Clerk.

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the filing by said company of unconditional acceptance thereof in the office of the clerk of said city of Frankfort.

§ 7. That whenever said company ceases to operate a telegraph line in said city of Frankfort, and ceases to use the said poles and lines herein provided for, in the operation of its line of telegraph, then said company shall remove said lines and poles from the streets and alleys of said city within sixty days from date, that said company so ceases to use and operate said lines. (Aug. 13, 1895.)

Western Union Telegraph Company are hereby repealed and annulled. Passed council July 23d and August 13th, 1895.

Approved this day of August, 1895.

IRA JULIAN, Mayor.

Attest: RICHARD TOBIN, City Clerk.

ARTICLE 13.

Privileges Granted to Central Ky. Traction Co.

§ 1. That said Central Kentucky Traction Company or its associates or assigns and they are hereby granted a right of way, right, franchise and privilege for the construction, operation and maintainance of a standard gauge trunk railroad for passengers, mail, express and freight traffic upon and along Main street inside the city from the city limits, thence west on said Main street to St. Clair street; thence south on St. Clair street to the bridge across the Kentucky river, and over and on said bridge or any bridge that may be built to replace the present bridge to the south side of the Kentucky river, thence south on Bridge street to Second street, thence east over Second street to Shelby street, thence south over Shelby street to Shelby street exten-

(Art. 3).

The following appears in proceedings of Council Minute Book (1906) Page 59, of date June 11, 1906:

(1) The ordinance granting the Central Kentucky Traction Co., franchise through the city was presented with the acceptance of the company endorsed thereon and the same was accepted by the council.

(2) This franchise was not granted in accordance with the statute. See Charter Sec. 5 (Ky. Stats., 3290, sub-sec. 35) and may not be valid. (See Frankfort Telephone Co. v. Board of Councilmen, 30 R., 885. See also Constitution 163-4 and Cumb. Telp. & Telg. Co. v. City of Calhoun, 151 Ky.. 241.

The first ordinance providing for the sale of a franchise for a street railway, that was ever passed, bears date April 26, 1892, and on May 10 it was sold to John Meagher for $265. (See Minute Book 1890-1894, pages 282 and 291.) On April 15, 1893 an ordinance was passed granting a franchise to the Capital Railway Co. (Minute Book 1890-94, page 415.) Other ordinances, making restrictions, granting extensions, ordering repairs, etc., are as follows:

Aug. 3, 1897, recorded in Ordinance Book page 167.

Sept. 21, 1897, recorded in Ordinance Book 1, page 168.

March 15, 198, recorded in Ordinance Book 1, page 190.

April 9, 1898, recorded in Ordinance Book 1, page 193.

Oct. 12, 1898, recorded in Ordinance Book 1, page 224.

May 9, 1899, recorded in Ordinance Book 1, page 265.

An ordinance providing for the sale of another franchise, passed June 6, 1903. (See Ordinance Book 2, page 79.) On Aug. 16, 1905, an ordinance fixed the location of tract on West Second street and Taylor Avenue. (Book 2, page 142.)

The Kentucky Traction & Terminal Company is the successor to the Central Kentucky Traction Co., but no record of the transfer appears on the city's books.

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sion, thence over Shelby street extension to Louisville road, thence over the Louisville road to city limits, also from the intersection of Shelby and Todd streets over Todd street to Murray street, thence over the Lawrenceburg pike to the city limits. Also from the intersection of Logan street to the State property known formerly as the Hunt property.

"Also from the intersection of Second street and Bridge street in South Frankfort west on Second street to the Louisville pike, thence south on the Louisville pike to the city limits."

Also from the intersection of Main street and Ann street in North Frankfort north on Ann street to Mero street; thence east on Mero street to Holmes street, thence N. E. on Holmes street to the Owenton pike and N. E. on the Owenton pike to the city limits.

Also from the intersection of Ann street and Mero street in North Frankfort; west on Mero street to the Leestown pike; thence west on the Leestown pike to the city limits, also in or along or across said streets, and across intersection streets in conjunction with any private rights of way or routes otherwise obtained together with switches, turnouts, sidetracks, bridges, culverts, polls, wires and all things necessary for the proper and safe operation and maintainance of said railroad, and the location within said city of a station or depot, subject however to the following conditions and limitations, viz.:

First. That said railroad shall be so constructed and operated as not to necessarily interfere with or impede the public use of said streets for the other traffic or transportation; and may be operated by electricity, but by no other motive power unless the common council shall hereafter specially consent thereto.

Second. Construction work that requires the hauling of heavy material through the city shall be done during the winter or spring months, between December 15th and March 1st, except by the consent of the council or its authorized agent, and any injury done said streets or other streets of said city at any time, or in any way, shall be immediately repaired by said grantees.

No construction work upon any street shall remain incompleted more than thirty (30) days after it is commenced on said street.

Third. The said grantees shall forever keep and maintain in good condition and repair, such portions of said street or of street crossings as they actually use or occupy with their track by crossing same or otherwise, and said track shall be so laid as to conform to the present established grade of the streets and the space between the rails and for eighteen (18) inches on each side of the track shall be by said grantees, filled with macadam or other material used upon said streets and upon said crossings, to the level of the rail, and all thereof kept in good repair by said grantees. The cross ties shall be so imbedded beneath the surface of the streets as to bring the top rails down to the level of the surface of the roadway and said grantees shall keep and maintain said macadam or other material for eighteen

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(18) inches on each side thereof. They shall use upon said streets only approved "T" rails should the city at any time or from time to time change the material of which the streets through which said railway runs in said city is constructed and reconstructed or rebuilt, said streets or any portion of them with vitrified brick or any other material than macadam of which they are now constructed, said grantees shall use upon said streets only approved shanghai "T" rails and on demand of the city council shall rebuild or reconstruct the space between the rails of its road for eighteen (18) inches on each side of said rails though said portion of said streets which are thus rebuilt or reconstructed by the city with the same kind of material used by the city, and such portions of said streets thus rebuilt or reconstructed by the city or reconstructed by said grantees shall be made by them to conform in all respects with the remainder of said street so constructed by the city.

Fourth. Said road shall be so constructed as not to interfere with the drainage of said streets or obstruct the free flow of water from or along said streets and whenever the construction of said railroad might interfere with the present drainage or obstruct the free flow of water from or along said street said grantees shall provide and paintain sufficient drainage either by open ditches or a sewer pipe, as may be directed by the engineer of the city of Frankfort.

Fifth. Through passenger cars shall be run each way, that is from Versailles to Lexington and Frankfort, at intervals of two hours or oftener all day from 7 o'clock in the morning to 8 o'clock in the evening on every day except that on Sundays cars may not be started from Frankfort before 9 o'clock in the morning. All passenger cars shall make regular stops at street intersections in Frankfort whenever any person offers to get off or get on the cars, upon a willful or avoidable failure at any time to so operate said road said grantees shall upon demand of the common council pay to said city the sum of one hundred ($100) dollars for each calendar month that such faliure continues and if such failure be for less than one month or more than two weeks then one hundred ($100) dollars for such less period of failure and said sum is hereby fixed and agreed on as liquidated damages.

Sixth. The said grantees shall at all times defend, indemnify and save harmless the city of Frankfort, free from and against all just and lawful claims or demands for injury to persons or property and cost and expenses to which said city of Frankfort may be subjected or made liable by any proceedings of law or in equity growing out of the grant of this franchise or any use of same by said grantees.

Seventh. The poles to be used for carrying and supporting the wires to conduct the electricity as to motive power through the city of Frankfort, shall be placed on the sidewalks of said streets at such places as the city engineer of said city shall direct, and shall be so erected as not to unnecessarily interfere with the free and unre-

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strained use of said streets and sidewalks and shall be removed and reset in other places whenever they do so interfere.

And the common council requires such removal and the grantees shall replace all sidewalks in as good condition as they find same.

Eighth. The cars shall be well lighted at all times and comfortably heated in the winter time season and shall carry headlights and rear signal lights at night and shall be furnished with good seats at all times with vestibules in the winter season.

Ninth. The rate of fare which said grantee may lawfully charge for the transportation of passengers within the limits of the city of Frankfort shall not exceed (5) cents for one continuous trip.

Tenth. It is especially understood that the franchise or right of way hereby granted is not exclusive, and all conditions and restrictions herein set out are to run with the grant and franchise, and shall be equally binding on any and all assigns and successors of said grantees who shall before taking control or charge of or operating said railroad file with the common council a written acceptance and consent to abide by and faithfully observe all of the said conditions. But the right of the use over any track constructed or acquired by the grantees is to be exclusive in them.

Eleventh. The said grantees shall provide within a reasonable time at some point upon its line of railroad conveniently accessable to the public a waiting room, or depot for the accommodation and convenience of persons desiring or intending to travel thereon, and shall thereafter keep and maintain such depot or waiting room well lighted and furnished with good seats, and the same shall be comfortably heated in cold weather.

Twelfth. Whenever or wherever the rails of said road shall intersect or cross those of steam railroad the said crossing shall be made and laid under the supervision and direction and be subject to the approval of the city engineer, and no car or vehicle of said railroad shall cross over such railroad intersection unless and until such car or vehicle shall have come to a full and complete stop, and some competent conductor of said car or vehicle has, while such car or vehicle is stationary, looked and listened from the point of intersection in both directions over said intersecting railroad, and ascertained that no train, engine, car or other vehicle is approaching upon the same within three hundred feet of the intersection of said railroad tracks.

Thirteenth. If said grantees shall ever at any time fail to promptly and fully perform and comply with any duty or obligation herein imposed, then the city of Frankfort may at its option proceed to perform and execute the same at the cost and expense of said grantee, and said grantees shall immediately become and remain liable to the city of Frankfort for any and all loss, expense, cost or damage incurred thereby, ten days notice however of such failure and of the thing required to be done shall first be given to said grantees.

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Fourteenth. The highest and greatest rate of speed that which any car, coach or train shall ever be run or propelled upon said tracks in said city of Frankfort, shall not exceed eight (8) miles per hour, and no freight car shall be drawn through the city at a greater rate of speed than five (5) miles per hour.

Fifteenth. The track on the bridge over the Kentucky river shall be laid and maintained so as not to be an obstruction to the travel over the same, and whenever the city council shall alter or change any grade in the approaches to the bridge so as to require a change in the roadbed or shall erect a new bridge which shall require a change of the rails of the road of said grantee or any part thereof the same shall on demand of the city council at once be removed and afterwards in a reasonable time be relaid all of which shall be done at the cost of said grantees and without any charge against the city, therefor for any delay or damage occasioned thereby.

Sixteenth. The grantee, before operating its cars along on any of the streets herein mentioned is required to obtain by purchase, lease or otherwise of the Frankfort & Versailles Traction Company, for the period of the life of the franchises granted heretofore to said company, by the city of Frankfort, the right of the joint or exclusive use of the streets upon and along which the said grantees by this ordinance acquire the right to construct and operate its road, provided however that no double track shall be laid on any street without the express consent of the common council shall first have been obtained.

Seventeenth. Neither the bridge aforesaid nor Main street in North Frankfort or Shelby street in South Frankfort is to be used for the transportation of freight cars but may be used for the transportation of passengers, baggage, express and packages, "railway express" as used in this grant is meant such packages only as are now usually handled by express companies.

Eighteenth. This right of way grant and franchise shall be null and void unless accepted in writing by said grantees or their representatives by filing a copy of this ordinance with such acceptance endorsed thereon with the mayor of the city of Frankfort within thirty days from and after the passage thereof. (May 14, 1906.)

ARTICLE 14.

§ 1. That the Kentucky Traction & Terminal Company, a trunk line railway, is hereby authorized and permitted to construct a track from a point in the Capital Lumber & Manufacturing Company's property on Logan street, thence along and across Logan street to Second street, thence along and across Second sereet, and thence to connect with the Kentucky Traction & Terminal Company's tracks west of Logan street. And the Kentucky Traction & Terminal Company is hereby authorized and permitted to transport passengers and freight along and across said tracks on Logan street, and along and across its tracks on Second street and the River road to the city limits,

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under the conditions and provisions of an ordinance passed Aug. 14th, 16th, 1905.

§ 2. The work herein provided for shall be done by the company under the supervision of the city engineer, and when completed shall conform to the general grade of the street. This work shall entail no expense on the city for repairs to the street made necessary by the laying of the switch. (December 11, 1913.)

CHAPTER 5.

HEALTH.

Board of Health.

§ 1. That there shall be and is hereby established a board of health of the city of Frankfort, consisting of three persons to be appointed by the mayor, who shall serve for one year or until their successors are appointed, the member first named shall act as chairman of said board, and the city physician shall act as secretary of the board. The board shall meet once a month and at such other times as they may deem best, and shall confer with the chairman of the Health Committee of the common council respecting all things involving the expenditure of money by the city and relating to its sanitary condition. Said board shall receive no compensation. (Sept. 19, 1894.)

[It shall be the duty of the council of every city in this State of ten thousand inhabitants or more to appoint a board of health for such city, to consist of six persons, not members of such council, who shall be appointed as follows: Two persons for a term of one year, two persons for a term of two years, and two persons for a term of three years, and at least three of whom shall be competent physicians. The mayor of such city shall be ex-officio a member of such board of health. Upon the expiration of the term of office of any member of a board of health appointed under this section, his successor shall be appointed for a term of three years.—Kentucky Statutes, sec. 2059.]

Powers of.

§ 2. The board of health shall have general charge of the sanitary condition of the city, furnish medical treatment for the poor of the city, and shall have power to adopt, during the prevalence of an edipemic, such regulations for the public health and safety respecting nuisances, sources, of filth and causes of sickness, as it may deem necessary to properly protect the health of the citizens, and shall use all known

(1) Health Board —Powers of. —May force patient to pesthouse. Hendgebold v. City of Covington, 22 R., 462.

(2) Health Officer—Compensation—City and County Liability for, Respectively.—Blair v. City, 21 R., 121; 23 R., 1253. Member of Council and Health Officer incompatible. Vickers, Mayor v. Sorg. 31 R., 277. May be removed at pleasure of Council. Riffe, Jr. v. Tinsley, etc., 20 R., 281. Salary when accepted cannot recover additional allowance. Groves v. Paducah, 28 R., 376.

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measures to prevent the introduction and spreading of contagious and infectious diseases; and said board shall examine into all nuisances, sources of filth and causes of sickness in the city which may come under their observation, or that may be reported to said board. (Sept. 19, 1894.)

Relating to Complaints.

§ 3. The secretary shall keep books for the purpose of recording all complaints, or communications from citizens respecting the existence of nuisances, filth, cause of sickness and the introduction of contagious diseases and other matters affecting the health of the city; and it shall be lawful for any member of said board when they deem it necessary in order to secure or preserve the public health, to enter upon the premises or into the houses, manufactory, workshop or other place of any person within the city or within one mile thereof, to ascertain any nuisance that may there exist, to inspect drains, vaults, sewers, yards and grounds; any person who shall molest or hinder said board shall be fined not exceeding twenty-five dollars.

Nuisances—Abatement of.

§ 4. Whenever the board of health shall ascertain that a nuisance affecting or endangering, in its opinion the public health, exists on any premises, or in any house manufactory, workshop or other place within the city of Frankfort or within one mile thereof, said board shall give a written notice to be executed by the city marshal notifying the owner, agent, tenant, occupant or person having control of such premises to abate and remove such nuisance within two days time, after the execution of said notice or in case of an emergency the same may be removed by the board of health without such notice.

Same.

§ 5. Upon the neglect or refusal of any owner, agent, tenant, occupant or person in possession or control of any house, manufactory, workshop, or other premises, within the city or within one mile thereof to comply with the notice provided for in the preceeding section the board of health shall report the fact to the police judge, in writing whereupon said judge shall issue summons against the person so notified returnable within such time as the court may deem reasonable requiring him to appear and show cause, if any, he can why such nuisance shall not be abated, and if he shall not show any good cause why such nuisance shall not be abated, then said court shall proceed to hear proof of the facts in relation to such property, and if the judge shall become satisfied that a nuisance does exist he shall so adjudge, and in addition to the penalty hereinafter provided he shall enter of

(1) Pest Houses—Location of—Not to be Within One Mile of City, 103 Ky., 228; 20 R., 87; Arnold v. Stanford, 24 R., 626; 113 Ky., 852; Henderson v. O'Halloran, 24 R., 995, 114 Ky., 186. City not liable for death of patient confined therein. City of Lexington v. Batsen's Admr., 26 R., 363, 114 Ky., 489, nor for exposure incident thereto. (489), Twyman v. City, 25 R., 1620, 117 Ky., 518.

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record in order directing the city marshal to cause such nuisance to be abated, at a reasonable and proper cost which he shall report to the judge and the amount of such cost together with the court cost, shall when approved and entered of record by the judge become a charge upon the property whereon such nuisance is situated and shall be forthwith listed with the tax collector for collection in the same manner taxes are collected; and the judge shall take the receipt of the tax collector thereof and file same with the city clerk who shall charge it against the tax collector as other tax lists are charged. (Sept. 19, 1894.)

Reports to Council.

§ 6. The board of health shall quarterly and oftener if deemed necessary report to the common council in writing the sanitary condition of the city, and shall from time to time recommend to the common council such measures as it may deem necessary to promote and secure the health of the city and to prevent the introduction and spread of dangerous contagious, malignant and infectious diseases. It shall be the duty of every physician in attendance at the time of the death of any person, or the coroner when the case comes under the notice, to furnish the city physician within twenty-four hours after such death, a certificate, setting forth, as far as the same can be ascertained the name, nativity, residence, age, sex, color, social relation, date and cause of death of such person, upon blanks to be furnished upon application to the city physician. And it shall be the duty of the city physician to keep a correct register of all deaths occuring within the city, which register shall contain and be an exact copy of all certilcates as are reported to him; and the city physician shall make from such register a monthly mortality report to the common council of the city of Frankfort. (Sept. 19, 1894, as amended Feb. 26, 1895.)

§ 9. It shall be the duty of the board of health, to require all persons suffering with the smallpox, scarlet fever, whooping cough, diphtheria, measles and cholera to be kept closely confined within their respective dwellings or place of abode and shall cause a yellow flag, or suitable notice, with the name and character of the disease printed in large letters thereon, to be hung or posted up in the most conspicuous place on the front of such dwelling or place of abode, in which such lisease exists, and it shall be unlawful for the occupants thereof, or any person to remove such flag or notice so long as said board shall require the same to remain. (Sept. 19, 1894.)

§ 10. That it shall be unlawful for any distiller, tanner, brewer, meat packer, livery stable keeper, manufacturer or other person to discharge out of or permit to flow from his still-house, tannery, brewery, packing-house, manufactory, stable or any other place any foul or nausieus liquids or substances whatever, offensive or dangerous to public health. (Sept. 19, 1894.)

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ARTICLE 2.

Meat Vendors, License Required of.

§ 1. That it shall be unlawful for any person, association, or corporation to sell or offer for sale, vend, dispose of, or offer to dispose of any meat intended for human consumption, whether slaughtered within the city or elsewhere, unless licensed so to do by the board of health of said city. Any person or persons, association or corporation desiring to sell, vend or dispose of any kind of means, may apply to the said board of health for a license, but no license shall be issued until the applicant therefor presents a statement in writing, duly signed by himself or his authorized representative, granting permission to the health officer, or his authorized representative, and the mayor or his authorized representative, to have free and open access to the slaughter house in which he proposes to slaughter, and the market, stall or vehicle owned, leased or occupied by him, from which his meat is sold, or in which it is stored, for the purposes of inspection. Sept. 13, 1910.)

Must Conform to State Board Rules.

§ 2. Any person or persons, firm, association or corporation engaged in the business of selling, vending, offering for sale or disposing of any meat or meat products in the city of Frankfort, whether by wholesale or retail and whether slaughtered within the limits of the city of Frankfort or elsewhere shall conform to the laws of the State of Kentucky regulating the sale of pure food, and to such regulations as may now be in force, or that may hereafter, from time to time, be prescribed by the State Board of Health, or the board of health of the city of Frankfort, and for any failure so to do, his license shall be revoked, as provided in the next succeeding section. (Sept. 13, 1910.)

Inspection and Revocation of License.

§ 3. The mayor may, at any time, revoke or suspend any license issued pursuant hereto, if upon investigation and report by the health officer or any other competent person authorized by the mayor to make such investigation, and after hearing the holder of the said license, he shall find that the condition of the slaughter house where the meat is slaughtered, or the market, stall or vehicle, or the meat offered for sale by such person shall be in violation of the provisions of this ordinance, or of the laws of the State of Kentucky regulating the sale of pure food, or the regulations of the State Board of Health, or the board of health of the city of Frankfort, or in any way detrimental to the public health. Such revocation or suspension of said license shall continue until the holder thereof shall have fully complied with and met all such requirements. The provisions of this ordinance shall apply to slaughter houses whether situated within or without the city limits of Frankfort. (Sept. 13. 1910.)

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ARTICLE 3.

Milk Vendors, License Required of.

§ 1. That it shall be unlawful for any person, firm, association or corporation to sell or offer for sale, vend, dispose of or offer to dispose of any milk or milk products unless license so to do by the board of health of the city of Frankfort. Any person or persons, firm, association or corporation desiring to sell or offer for sale any milk or milk products must apply to the city board of health for a license, but no license shall be issued until the applicant therefor shall present to said board of health a statement in writing, duly signed by himself or his authorized representative, granting permission to the health officer or his authorized representative, and the mayor or his authorized representative, to have free and open access to the buildings or places in which his cows are milked, and to the dairy, stalls and wagons used by him, and the place where his milk is kept, stored or placed for delivery, or to whatever may be used by him in connection with the dairy business. (Aug. 26, 1910.)

Must Conform to State Board Rules.

§ 2. Any person or persons, firms, association or corporation engaged in the business of selling, vending offering for sale or disposing of any milk or milk products in the city of Frankfort, whether by wholesale or retail, shall conform to the laws of the State of Kentucky regulating the sale of pure food, and to such regulations as may now be in force, or that may hereafter, from time to time, be prescribed by the State board of Health, or the Board of Health of the city of Frankfort, and for any failure so to do, his license shall be revoked, as provided in the next succeeding section. (Aug. 26, 1910.)

Suspension and Revocation of License.

§ 3. That mayor may, at any time, revoke or suspend any license issued pursuant hereto, if upon investigation and report by the health officer or any other competent person authorized by the mayor to make such investigation, and after hearing the holder of the said license, he shall find that the condition of the dairy, building or places, stalls or wagons used by him, or the milk or milk products for sale by such persons shall be in violation of the provisions of this ordinance, or of the laws of the state of Kentucky regulating the sale of pure food, or the regulations of the State Board of Health, or the board of health of the city of Frankfort, or in any way detrimental to the public health. Such revocation or suspension of said license shall continue until the holder thereof shall have fully complied with and met all such requirements. The provisions of this ordinance shall apply to all dairies, whether situated within or without the city limits of Frankfort. (Aug. 26, 1910.)

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CHAPTER 6—OFFENSES AND PENALTIES.

Animals—Cruelty to.

ARTICLE 1.

§ 1. That any person, who shall drive, overload, deprive of the necessary sustenance; whether food or water, or who shall unnecessarily or cruelly beat, tortue, use or otherwise mistreat any horse, or other animal, whether his own or that of another, shall be fined not less than ten ($10) dollars nor more than one hundred ($100) dollars, and the proceeds of the fine and costs imposed, when collected, shall after the payment of the officers' commissions, be paid into the treasury of the Franklin County Humane Society by the police judge or other officer collecting same. (Aug. 16, 1910.)

Animals Dead on Street.

§ 2. That the owner or possessor of any animal which shall have died from disease, or been accidentally or intentionally killed, who shall knowingly suffer the same to lie on any street, alley or public place, or on any private lot or premises within the city, for more than ten hours after death of such animal, he shall be fined not exceeding $10. (Sept. 19, 1894.)

§ 3. That any person who shall ride or drive any horse or other animal, through, along or upon any street, or alley of the city of Frankfort, at a rate of speed faster than six miles an hour, or when turning a corner shall drive otherwise than in a walk, shall be fined not less than two nor more than twenty dollars for each offense. (July 12, 1894.)

Animals—Control of When in Use.

§ 4. That any person while driving wthin the city, any animal or animals attached to any vehicle, who shall be found out of the reach of the lines attached to said animal or animals, when in motion, or who shall be more than ten feet from any animal harnessed or attached to a vehicle under his charge while same is unsecured, or who shall so drive as to endanger the life or limb of any person, or who shall stand his vehicle on the crossing of a street so as to obstruct the free passage thereof, shall be fined not less than one nor more than fifty dollars for each offense. (July 12, 1894.)

Automobiles—Regulating Speed of.

§ 5. That no person shall operate or run an automobile or other vehicle in the streets of Frankfort which is operated by gasoline, electricity or steam at a greater rate of speed than eight miles an hour.

Any person who shall violate the provisions of the preceding section shall be fined not less than five nor more than twenty ($20) dollars for each offense. (Aug. 24, 1908.)

Chap. 6. An ordinance on the subject of gaming, approved Dec. 1, 1902, and an ordinance on the same subject of July 10, 1884, is omitted from this chapter because in Com. v. Sparks, it was held that cities of the third class are without authority to pass ordinances to punish such offenders, 18 R., 269, 99 Ky., 351.

For other offenses relating to animals, see Page 1.

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Bicycles on Sidewalks Prohibited.

§ 6. That it shall be unlawful for any person to ride a bicycle on any pavement or sidewalk in the city of Frankfort.

Any person violating the provisions of this section one shall be fined $5 for each offense. (Oct. 3, 1895.)

Bands of Music on Sunday.

§ 7. That hereafter it shall be unlawful for any band of music to play or parade the streets of the city of Frankfort on Sunday (except in attendance on funerals and returning from same, and except the common council may in its discretion on special occasions permit bands of music to play on Sunday), and that each member of such band so participating in any such parade, shall upon conviction in the police court be subject to a fine of not less than $3 nor more than $10 for each offense. (Feb. 19, 1896.)

Breach of Peace.

§ 8. That if any person or persons shall be guilty of any breach of the peace, riot, rout, unlawful assembly or affray, within the city of Frankfort, or within one mile thereof, the person so offending and each of them shall be fined not less than $5 nor more than $100, or imprisonment in the workhouse, not less than five nor more than 50 days, or both so fined and imprisoned. (July 10, 1894.)

Bridge—Fast Driving on.

§ 9. That it shall be unlawful for any person to ride or drive any horse or other animal over across or upon the St. Clair street bridge at a gait faster than a walk; and any person who shall violate this ordinance shall be fined not less than $2 nor more than $20 for each offense. (Jan. 24, 1893.)

Burning Trash on Street.

§ 10. That any person who shall, upon any of the streets or public ways of the city of Frankfort, set, or put fire to, or couse to be burned, any straw, paper, pasteboard or wooden boxes, or trash of any kind shall be deemed guilty of a public offense, and shall, upon conviction thereof, in the police court, be fined not less than two ($2) dollars, nor more than ten ($10) dollars for each offense; recoverable by warrant before the police judge of the city of Frankfort. (Jan. 24, 1893.)

Cigarette Sale to Persons Under Eighteen Prohibited.

§ 11. That it shall be unlawful for any person or persons doing business in the city of Frankfort, to sell or furnish to any person under the age of eighteen years, any cigarette or cigarette material,

§ 8. This ordinance is invalid according to City of Owensboro v. Taylor, 17 R., 856, 98 Ky., 271.

Imprisonment for Costs. — Offenders against city ordinances may be imprisoned for costs as well as for fine if authorized by charter. Sec. 127 Charter (3364 Ky. Statutes) and Berry v. Brislan, &c., 9 R., 223.

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or give, sell or barter the same to any person whomsoever, with the knowledge that the same is to be given or sold or bartered to any such child, or to persuade, advise, counsel or compel any child under said age to smoke the same; any person who violates the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than $5 nor more than $50, or imprisoned in the workhouse not exceeding thirty days, or both so fined and imprisoned. (July 10, 1894.)

Concealed Weapons.

§ 12. That if any person shall within the city of Frankfort carry concealed a deadly weapon upon or about his person, other than an ordinary pocket-knife, or shall sell such weapon to minor, other than ordinary pocket-knife, such person shall upon conviction be fined not less than twenty-five nor more than one hundred dollars and imprisoned in the workhouse for not less than ten nor more than thirty days, in the discretion of the court or jury trying the case provided, however, that carrying concealed weapons shall be lawful in the following cases:

Discharging Firearms, Etc.

§ 13. That if any person shall discharge any fire arms in the city of Frankfort, unless necessary or proper for the protection of person or property, he shall be fined not exceeding twenty dollars, but the provisions hereof hall not apply to gunsmiths who may discharge fire arms, when necessary in the proper conduct of their business.

§ 14. That it shall be unlawful for any person or persons to shoot or explode dynamite, giant powder, toy cannon, skyrocket, roman candle, torpedoes or other explosives of any kind whatever, within the limits of the city of Frankfort. Provided, however, that nothing herein shall be construed to prohibit the setting off of any skyrockets, roman candles, firecrackers, squibs and other fireworks on the 24th and 25th day of December, and the 4th day of July of each year; for any violations of this section the person so offending shall be fined not less than $5 nor more than $20. (July 12, 1894.)

Disorderly Conduct.

§ 15. That any person who shall within the city of Frankfort or within one mile thereof be guilty of any riotous or disorderly conduct or who shall by cries, songs, or any boisterous noises disturb the peace and good order of the city, or who either by words or acts, conduct themselves in a disorderly manner shall, upon conviction thereof, be fined not less than $2 nor more than $50. (July 12, 1894.)

Disturbing Religious Worship.

§ 16. That any person who shall willfully interrupt or disturb a congregation assembled for, or engaged in, worshipping God in the city of Frankfort, or who shall willfully interrupt any school, semi-

§ 14. Disorderly conduct distinct offense—may be punished under city ordinance. Clyt of Mt. Sterling v. Holly, 22 R., 358.

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nary or college in said city, while the students of the same are engaged in their studies, or undergoing a public examination or any assemblage of people met for or engaged in any lawful purpose within said city, shall be fined not less than twenty nor more than fifty dollars, or imprisoned in the workhouse not more than twenty days, or both so fined and imprisoned. (July 12, 1894.)

Drunkenness— Profane Language.

§ 17. That any person who shall profanely curse or swear, or who shall be drunk upon the streets or in any public place in the city, shall be fined not less than $1 nor more than $5 for each offense, or imprisoned in the workhouse not less than five, nor more than thirty days, or both so fined and imprisoned. (July 12, 1894.)

Minors—Entering Saloons.

§ 18. That any person, under twenty-one years of age, who shall without the permission of his or her parent or guardian, enter any saloon or other place where spirituous, vinous or malt liquors are sold at retail, or loiter therein, when not required to do so on business, shall be fined not less than ten nor more than twenty dollars, for each offense. (Aug. 26, 1907.)

Obscene Literature.

§ 19. That any person who sells, lends, gives away or shows, or offers to sell, lend, give away or show, or has in his possession with the intent to sell, lend or give away or show, or who advertises in any manner, or in any wise offers for sale, loan, gift, distribution or exhibition any obscene, lewd, lascivious, filthy or indecent book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing, photograph, figure, image, or any written or printed matter or an indecent character, shall upon conviction thereof in the police court be fined not less than $200. (July 25, 1894.)

Women—Entering Saloon.

§ 20. It shall be unlawful for any woman, not a member of the family of the owner of any of his employees, to enter any saloon or loiter around the doors thereof.

Any saloon keeper permitting any one so to offend shall be fined not less than five nor more than fifteen dollars for each offense.

Any woman so offending shall be subject to the same fine. (May 27, 1907.)

ARTICLE 2.

Children—Curfew Law.

§ 1. It is hereby made unlawful for any person under fifteen years of age to be or remain in or upon any of the streets, alleys or public places in the city of Frankfort, at night after the hour of nine o'clock, p. m., from March 1st to August 31st, inclusive of each year; and from September 1st to the day of February, inclusive, or each year

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after the hour of eight o'clock, p. m., unless such person is accompanied by a parent, guardian, or other person having the legal custody of such minor, person, or is in performance of an errand or duty directed by such parent, guardian or other person having the care and custody of such minor person, or whose employment makes it necessary to be upon said streets, alleys, or public places during the night time after said specified hours. Any person violating the provisions of this section shall, on conviction, be fined in any sum not to exceed $5 for each offense and stand committed until such time and costs are paid.

§ 2. It is hereby made unlawful for any person, guardian or other person having the legal care and custody of any person under fifteen years of age, to allow or permit any such child, ward or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys or public places in said city within the time prohibited in section one (1) of this ordinance, unless there exists a reasonable necessity therefor. Any person violating the provisions of this section shall on conviction, be fined in any sum not exceeding $1 nor more than $10 for each offense, and stand committed until such fine and costs are paid.

§ 3. Each member of the police force, while on duty, is hereby authorized to arrest, without warrants, any person willfully violating the provisions of section one (sec. 11 of this chapter) of the ordinance, and retain such person for a reasonable time in which complaint can be made and a warrant issued and served. Be it further ordained that no child or minor persons arrested under the provisions of this ordinance shall be placed in confinement until they have first been taken home to ascertain the parents wishes, and the parents shall have refused to be held responsible for the observance of the provisions of this ordinance by said minor person.

§ 4. It shall be the duty of the police judge, upon the arrest of any child or minor person where the parents or guardians have refused to become responsible for said minor person for violating of the provisions of section 1 of this ordinance, to inquire into the facts of the arrest and the conditions and circumstances of such child or minor person, and if it shall appear that such child or minor person, for want of proper parental care is growing up in mendicancy or vagrancy, or is incorrigible, cause the proper proceedings to be had and taken and authorized and provided by law in such cases. (Aug. 9, 1898.)

ARTICLE 3.

Disorderly Houses.

§ 1. That it shall be unlawful for any person to keep a disorderly house or place, or a house or place where or in which persons of bad reputation or immoral character resort or congregate and by loud and boisterous noises or using indecent, profane, or vulgar language

§ 1. An ordinance of the City of Owensboro substantially the same as this section was upheld in City of Owensboro v. Simms, 17 R., 1393, 99 Ky., 49.

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or by any indecent or lascivious act; or other wrong, disturb the peace and good order of the city, and any person violating any provisions of this section, shall upon conviction thereof in the police court be fined in any sum not exceeding $100, or imprisoned in the workhouse not exceeding fifty days, or both so fined and imprisoned in the discretion of the court or jury trying the case. (July 24, 1894.)

Same—Renting of.

§ 2. If any person shall knowingly rent or lease any dwelling house, building, tenement or any part thereof, owned by him, or under his control, to be used as a house of ill-fame or shall knowingly permit any house, building or tenement under his control to be so used as a house of ill-fame, such person shall be deemed guilty of maintaining a nuisance, and shall upon conviction thereof in the police court of the city of Frankfort, be fined in any sum not exceeding $50. (April 27, 1897.)

Indecent Exposure of Person.

§ 3. That it shall be unlawful for any person within the city limits either by bathing in the river or otherwise to make any indecent exposure of his or her person, or commit publicly any indecent, obscene or lewd act, or use publicly any obscene language and any person so offending shall upon conviction thereof be fined not exceeding $25. (July 10, 1894.)

Insulting Language.

§ 4. That who ever shall in the presence of another person or persons use any abusive or insulting language, intending thereby to insult such other person or persons, or with the intention to provoke an assault shall be deemed guilty of a misdemeanor and shall upon conviction thereof be fined not exceeding $20 if the offender be a male and the person so injured be a female the offender shall be fined in any sum not exceeding $50. (July 10, 1894.)

ARTICLE 4.

Meat, Vegetables, Fruit, Etc.—Unwholesome.

§ 1. That any person who shall knowingly sell or offer for sale, any putrid, impure or unwholesome meat, or the meat of any animal dying otherwise than by slaughter, slaughtered when diseased, or the meat of any fish, bird or fowl, that is diseased, unsound, unwholeome, or which for any reason is adjudged to be unfit for human food, or who shall knowingly sell or offer for sale any unwholesome bread or drink, or who shall sell or offer for sale any decayed or damaged vegetables or fruits, shall upon conviction thereof in the police court, be fined not less than $1 nor more than $50 for each offense. (Sept. 19, 1894.)

§ 2. It shall be unlawful for any person or persons, association, firm or corporation to sell, vend, offer for sale, or dispose of any meat or meat products from sick or diseased animals, or which is spoiled,

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contaminated, or which has been slaughtered or kept in unsanitary conditions, or which is adulterated or misbranded, or that consists of any part of an animal that has died otherwise than by slaughter, or that has been fed upon the offal from a slaughter house. And any person or persons, association, firm or corporation, guilty of a violation of this section shall upon conviction be fined not less than ten ($10) dollars nor more than one hundred ($100) dollars. (Amendment Sept. 13, 1910.)

ARTICLE 5.

§ 3. Any person or persons, firm, association or corporation, that shall sell or offer for sale any meat or meat products in the city of Frankfort without a permit, as required by section one of this ordinance (sec. 7, chap. 5), or after the revocation of his license, as provided by section four (sec. 9, chap. 5), or without having complied with the requirements prescribed by the state or city board of health, shall be fined not less than ten ($10) dollars nor more than one hundred ($100) dollars, and each sale without such permit shall constitute a separate and distinct offense. (Amendment Sept. 13, 1910.)

Milk Unwholesome.

§ 1. That any person who shall knowingly sell, or cause to be sold within the city of Frankfort milk diluted with water, or in any way adulterated or milk from which cream has been taken, or milk commonly known as skimmed milk with intent to defraud, or sell knowingly any milk the product of diseased animal or from animals fed upon still slop, or brewers slop, or shall knowingly use any poisonous or deleterious material, or milk from animals fed as aforesaid in the manufacture of butter or cheese shall be fined not less than $25 nor more than $200. (Sept. 19, 1894.)

§ 2. It shall be unlawful for any person or persons, firm, association or corporation to sell, vend, offer for sale, or dispose of any milk or milk products from sick or diseased cows, or from cows fed on food unfit for dairy animals, and all milk or milk products containing any added, poisonious or deleterious ingredient, or containing added water or adulterated substance, and it shall be unlawful to sell, vend, offer for sale or dispose of any milk or milk products within the said city of Frankfort from cows milked by any person, who has within twenty (20) days been exposed to typhoid fever or any contagious or infectious disease, or from any farm or dairy where the water thereon and used for dairy purposes has been found to be infected with typhoid fever germs or germs of any other infectious or contagious disease. For a violation of this section, the offender, shall upon conviction, be fined not less than ten ($10) dollars nor more than one hundred ($100) dollars. (Amendment Aug. 26, 1910.)

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ARTICLE 6.

§ 3. Any person or persons, firm, association or corporation, that shall sell or offer for sale any milk or milk products in the city of Frankfort without a permit, as required by section one of this ordinance (sec. 10, chap. 5), or after the revocation of his license, as provided by section four (sec. 11, chap. 5), or without having complied with the requirements prescribed by the State Board of Health, shall be fined not less than ten ($10) dollars nor more than one hundred ($100) dollars, and each sale without such permit shall constitute a separate and distinct offense. (Amendment Aug. 26, 1910.)

§ 4. That any butcher, milk dealer, green grocer, fruit dealer, or other person dealing in substance or materials used for human food, who shall refuse to allow the board of health or any member thereof to fully inspect any and all substances and materials held, offered or intended for sale, or who shall molest or hinder any member of said board from making such inspection, shall be fined not exceeding $10 and the fact of such substance and materials being found in the possession or on the premises of any of the aforesaid, dealers shall be prima facia evidence that such substance and material are held for sale. (Sept. 19, 1894.)

§ 5. That any person, company or corporation who shall violate any of the provisions of this ordinance, or any of the orders, rules or regulations of this board of health, or who shall fail or negect to comply with any of the requirements of said board shall, except where a different penalty is herein provided, be fined not exceeding fifty dollars.

ARTICLE 7.

Nuisance.

§ 1. That whenever any cellar, vault, privy drain, pool, sink, privy, sewer, stagnant water, or putrifying matter of any kind, upon premises or grounds belonging to or occupied by any preson or corporation within the city of Frankfort or within one mile thereof, shall become foul, offensive or injurious to the public health, same is hereby declared to be a nuisance, and may be abated as herein before provided; and the person or persons on whose premises the same is suffered or permitted shall be deemed guilty of suffering and permitting a nuisance, and shall on conviction thereof, be fined not less than $2 nor more than $50. (Sept. 19, 1894.)

§ 2. That hereafter it shall be unlawful for any owner, lessee, agent, tenant or occupant of the premises upon which any privy, vault,

Sec. 4 refers to ordinance of Sept. 19, 1894, recorded in Ordinance Book No. 1, page 75.

How nuisances abated—See Chapter 5, Sec. 4.

(1) Police court has concurrent jurisdiction only to try nuisance cases, notwithstanding city ordinance. Other courts try under the common law. Com. v. Hunter, 19 R., 1109.

(1) Police court has no jurisdiction over offenses committed outside of city limits, and within one mile thereof. An ordinance covering offenses committed beyond limits of city is unconstitutional. Earle, Mayor, &c. v. Latonia Agricultural Association, 32 R., 586, 127 Ky., 578.

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sink or hole used as a place of deposit for night soil, is situated, to allow such privy, vault, sink or hole to be or became filled within three feet of the general surface of the ground in its immediate vicinity and any privy, vault, sink or hole so allowed to be or become filled within three feet of the general surface of the ground in its immediate vicinity, is hereby declared to be a nuisance and may be abated as heretofore provided in said ordinance passed Sept. 14, 1894 (chapter 5, sec. 4), and any owner, lessee, agent, tenant, or occupant upon whose premises the same is suffered and permitted shall be deemed guilty of suffering and permitting a nuisance and shall on conviction thereof in the police court, be fined not less than $2 nor more than $50. (Oct. 9, 1894.)

§ 3. That any person who shall clean, scale, or wash any fish, meat, clothes, carriage or other vehicle or any other thing tending to create a nuisance, on any street, alley or public place of the city, shall be fined not exceeding $10. (Sept. 19, 1894.)

§ 4. That it shall be unlawful for any person to keep any hog pen, chicken coop, or barn yard adjoining to or abutting upon any lot upon which any other person resided, or so near thereto as to be offensive, or in such manner that the contents of such hog pen, goat pen, chicken coop, or barn yard are discharged on said lot, or on any street, lane or alley in the city; and any person so offending shall be subject to a fine of not less than $2 nor more than $20 for each offense. (Sept. 19, 1894.)

§ 5. That it shall be unlawful for any person to throw or deposit or permit to be thrown or deposited any dirt, paper, filth, sweepings of any store house, shop or office, or any ashes, shavings, filthy water, offal straw, wood, stone, earth, manure, refuse matter or rubbish of any kind whatever into any street, alley or public grounds within the city. Any person violating this section shall be fined not less than $2 nor more than $20. (Sept. 19, 1894.)

§ 6. It shall be unlawful for any person to deposit or use, or allow to be deposited or used to fill up or raise the surface or level of any lot or other place within the city, any animal or vegetable substance, street sweepings, dirt gathered in cleaning yards, building or waste of mills, or factories, or any materials which are offensive, or lend by decay to become putrid or render the atmosphere unwholesome or offensive. And any person violating any of the provisions of this section shall be fined not less than $2 nor more than $10. (Sept. 19, 1894.)

§ 7. That any person who shall allow any water from any well, spring, fire hydrant, water pipe, ice house or other place over which he has control, to run to waste, so that it shall form or be liable to form a stagnant pool or mud hole, on any premises belonging to him or under his control, or in any street, alley or public place in the city, shall be fined therefor not exceeding $10. (Sept. 19, 1894.)

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ARTICLE 8.

Officer—Refusing to Aid.

§ 1. That any person who shall fail or refuse to render assistance to the marshal, or any police officer of the city when summoned so to do, and any person who shall willfully resist, obstruct, or hinder, the marshal or any police or other peace officer in the performance of his duties, shall upon conviction thereof in the police court, be subject to a fine of not less than $5 nor more than $50. (July 25, 1894.)

Office—Refusing to Surrender.

§ 2. That hereafter any person who now holds, or may hereafter hold, any office or agency under the charter or ordinances of the city of Frankfort, who shall fail or refuse to deliver to his successor in office any books, records, papers, keys, buildings or other property of the city of Frankfort, upon the same being demanded by his successor in office, or who shall obstruct or prevent in any manner the person appointed or elected as his successor in assuming or performing the duties of the office to which he is appointed or elected, shall upon conviction thereof before the police court, be fined not less than $5 nor more than $25 and each twenty-four hours that the property is retained or interference continued shall be deemed a separate offense. (July 24, 1894.)

ARTICLE 9.

Poisonous Drugs.

§ 1. That it shall be unlawful for any druggist, pharmacist or other person, to sell, give or procure for any person any opium, or derivities or apium, cocaine, chlorad or combinations of same, or other deleterious or poisonous drugs except upon a written prescription of a reputable, regular practicing physician duly licensed by the State of Kentucky.

§ 2. After the proper prescription therefor has been presented, and before any sale, gift or other disposal by the above named druggist, pharmacist, or other person they shall affix to the bottle, box, vessel or package containing same, a label printed or plainly written containing the name of the article and the name and place of business of the seller, and it shall be the further duty of any person so selling or disposing of said drugs to keep a book in which shall be pasted the prescription upon which said sale was made, and which shall be entered the name of the seller and the name and residence of the buyer; which book shall be at all time open to the coroner of Franklin County, and board of health of the city of Frankfort.

§ 3. No prescription issued in compliance with the provisions of this ordinance shall be filled a second time, unless same be re-endorsed by the physician who originally issued same, with the date of the re-endorsement.

§ 4. Any druggist or pharmacist violating the provisions of this ordinance, or any section thereof, shall forfeit his license and be

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henceforth barred from practicing pharmacy, or engaging in the sale of drugs in the city of Frankfort. The penalty incurred under this section may, after conviction, be waived or pardoned by the order of the mayor upon proper and satisfactory proof that said pardon is justifiable.

§ 5. Every person failing to comply with the requirements of this section of this ordinance, or who shall violate any of its provisions, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $10. And each and every sale, gift or other disposal of the above named drugs, chemicals and like preparations, whether to the same or different persons, shall be deemed a separate offense. (June 11, 1901.)

ARTICLE 10.

Smallpox.

§ 1. That any person who shall knowingly introduce or aid in introducing into the city the smallpox, or any other dangerous, contagious or infectious disease, or who knowing of the existence of any such disease in the city or within one mile thereof, shall fail for more than twelve hours to report the same to the board of health, shall be fined not less than $2 nor more than $50. (Sept. 19, 1894.)

§ 2. That in order to prevent the spread of smallpox or contagious or infectious disease into the city of Frankfort; and until further action is taken on the subject; all persons coming from the cities of Louisville, Lexington or Georgetown, or other places within this State, that has been thrown in contact with any or all diseases that are contagious or infectious, are hereby forbidden and prohibited from entering into or stopping within the limts of the city of Frankfort, or within five miles thereof.

§ 3. That any person or persons who shall violate the provisions of this ordinance either by bringing others or coming themselves, shall upon conviction in the police court, be fined in any sum not less than fifty ($50) dollars nor more than one hundred ($100) dollars, and each and every person so brought shall be considered a separate offense. (Feb. 6, 1899.)

§ 4. The board of health may take such measures as it deems fit to prevent the spread of smallpox and may issue an order requiring all persons residing or temporarily stopping in the city or in any part thereof to be vaccinated within such time as it shall prescribe and all persons refusing or neglecting to obey such order, either as it respects themselves or their children or wards, or any of the members of their households over whom they have control, shall upon conviction thereof in the police court, be fined not less than $2 nor more than $20.

Art. 10. The ordinance passed February 6, 1899, was probably without knowledge of the existence of that of September 19, 1894, (Sec. 1). There is a doubt as to the effect of it, as the intention seemed to be only for temporary purposes, though unnecessary. It is deemed proper at least to include it in this volume.

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Provided, however, that it shall be the duty of the board of health to provide at the expense of the city, for the vaccination of all such persons as are unable to pay for same. (Sept. 19, 1894.)

ARTICLE 11.

Streets and Sidewalks—Relating to.

§ 1. That it shall be unlawful for any person to place or cause to be placed on any street or public way of the city, any cellar way or grating, that is otherwise than level with the adjoining pavement, and that extends more than four feet from the line of the adjoining lot; and it shall be unlawful for any person to permit his cellar door or cellar way to be left open at any time or to be in an insecure condition, or in such condition as to endanger passersby. And any person violating any provisions of this section shall be fined not less than $5 nor more than $20 for each offense.

§ 2. That any person who shall enclose any street or part of any street or public way of the city with a fence or wall, or in any manner whatever, or who shall erect or place upon any street or public way of the city, any building, step, bulk, jut, window, scales, booth, stand or other thing, whereby the passage of such street or public way is incommoded, or the gutter way thereof obstructed, shall be fined not less than $3 nor more than $50 for each offense.

§ 3. That it shall be unlawful for any person wantonly or carelessly to obstruct any of the public ways of the city by placing or standing thereon, any cart, wagon, or other vehicle or by placing or depositing thereon, any wood, coal, lumber, stone, lime, or other article, and upon conviction thereof such person shall be fined not less than $2 nor more than $20 for each offense. Provided, that nothing herein shall be construed to prohibit the necessary use of the sidewalks to ship and receive goods and merchandise, and for putting in coal or other fuel, provided a sufficient passage way is left for pedestrians; and provided also, that nothing herein shall apply to persons engaged in erecting, or repairing buildings, or making improvements, who may occupy with building materials not more than one-half of the street or alley in front of, and next contigeous to the lot being improved; and provided, further, that any person doing or causing any work to be done which makes it necessary for building materials of any kind to be placed in the street, or any public way of the city, shall remove same, together with all litter caused by the work, within three days after the completion of the work, and for failure to remove such material and litter such person shall be subject to the penalty provided in this section.

§ 4. That it shall be unlawful for any person to dig up, or carry away any sand, gravel, sod, stone or earth from any street or public way of the city of Frankfort without the permission of the common council, and any person violating any of the provisions of this section shall be fined not less than $2 nor more than $20 dollars.

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§ 5. That if any person shall make or cause to be made any excavation in any street, sidewalks or public way of the city, for the purpose of laying down pipes, or for any other purpose whatever, it shall be the duty of such person within twenty-four hours after the completion of such work to replace and restore such street, sidewalk or public way with as good material, to as good condition as same was in before being opened. Any person violating any of the provisions of this section shall be fined not less than $5 nor more than $20.

Sub-sec. 6. That all persons who place building materials or obstructions of any kind upon, or make excavations in any street or public way of the city, shall between the hours of sunset and sunrise, place and keep burning on such material or obstruction and about or around such excavations at least two red signal lights in the most conspicuous place thereon, or thereabouts; and any person who shall in anywise fail or refuse to comply with the provisions of this section shall be fined not less than $5 nor more than $50.

§ 7. That any person who shall throw or deposit or permit to be thrown or deposited on any street or public way of the city, any dirt, paper, filth, sweepings of any store, house, shop, office or barn, or any ashes, shavings, filthy water, straw, refuse matter or rubbish of any kind whatever, shall be fined not less than $2 nor more than $25.

§ 8. It shall be unlawful for three or more persons to stand in a group, or near each other, on any street or sidewalk in such positions as to obstruct or hinder persons from freely passing same, and every such person so obstructing any street or sidewalk shall move on immediately when requested so to do by the chief of police or any police officer; and every such person so obstructing any street or sidewalk who shall fail or refuse to move on when requested so to do by any police officer, shall on conviction thereof, be fined not exceeding $5. (July 25, 1894.)

Streets—Sprinkling of.

§ 9. That it shall be unlawful for any person when sprinkling a brick street in the city of Frankfort, to use any kind of nozzle except a spray or something on that order which will not wash the dirt or composition from between the bricks.

Any one convicted of injuring the said brick streets by forcibly throwing water between, on or under, the said brick shall be fined in any sum not exceeding $2. (May 31, 1898.)

Soliciting Trade on Streets and Sidewalks.

§ 10. That it shall be unlawful for any merchant doing business in the city of Frankfort, or any person for him, to go upon the streets or sidewalk in said city or stand in the doorway of his place of business or any other place and call or motion to any person standing or traveling on said streets or sidewalks to come into his place of business and purchase goods of him; and it shall be unlawful for any

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merchant in said city or any person for him to employ any scheme or ruse to render ineffectual the provisions of this ordinance. (April 4, 1904.)

§ 11. Any person or persons found violating the provisions of this ordinance shall be fined not less than five ($5) dollars nor more than twenty ($20) dollars, and may at the discretion of the police judge be imprisoned not longer than thirty (30) days. (April 9, 1904.)

ARTICLE 12.

Street Cars—Operation of Regulated.

§ 1. That no street car shall be run across the iron bridge connecting North and South Frankfort faster than four miles an hour.

§ 2. Any person or persons, company, corporation violating the provisions of section one of this ordinance shall upon conviction, be fined not less than $2 nor more than $20 for each offense. (June 1, 1895.)

§ 3. That the following penalties for a violation of the ordinance and resolutions regulating the construction or the operation of the Frankfort & Versailles Traction Company's Railway in the city, are hereby prescribed:

For running cars during any hours when prohibited by ordinance ten ($10) dollars for each trip.

For any other violations of an ordinance or resolution regulating the construction or operation of said railway or directing the repair of streets or tracks there shall be imposed a fine of from five ($5) dollars to fifty ($50) dollars in the discretion of the court. (Aug. 16, 1905.)

ARTICLE 13.

Telephone Regulations.

§ 1. That pursuant to the power of this body, conferred on it by the organic law, to fix and regulate the prices charged for telephone service and rental in this city, it is now ordained that the lowest scale of prices fixed by any telephone association or company, or by any person operating the same, as compensation for such service or rental on and after July 1, 1901, shall remain stationary and in force and effect for the term of ten years.

§ 2. That if any such person or company, or the managing agent or employees thereof, shall after fixing such low rate increase the same in violation of this ordinance, he or it shall be deemed guilty of a misdemeanor and be fined in any sum not exceeding fifty ($50) dollars per day for each day such higher rate is maintained or charged, and shall suffer a forfeiture of the right to the use of the public ways of the city. (Feb. 12, 1901.)

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(1) The ordinance of April 27 and May 3, 1909, provides for the sale of a franchise and is recorded in Ordinance Book 2, page 220. The Frankfort Telephone Co. is now operating under it and it may be found in Chapter 4, Article 11, this book.

(2) But see East Tennessee Telephone Co. v. Board of Councilmen, 141 Ky., 588.

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§ 3. No telephone company shall be allowed to do business in the city of Frankfort, Kentucky, without first obtaining a franchise in accordance with the ordinance passed April 27th and May 3d, 1909, and any telephone company that undertakes to operate its lines or to do business in the city of Frankfort without a franchise shall be deemed guilty of a misdemeanor and fined in any sum not exceeding $100, and each day shall be deemed a separate offense. (June 13, 1910.)

Any telephone company charging larger rental for their telephones than as set out in an ordinance passed April 27th and May 3d, 1909, shall be deemed guilty of a misdemeanor and fined not less than $5 nor more than $20 for each offense. (June 13, 1910.)

ARTICLE 14.

Trespass Upon Property.

§ 1. That it shall be unlawful for any person to wantonly or carelessly injure, trespass upon, destroy, or in anywise damage any of the public buildings within the city of Frankfort, or any fixtures appertaining to or any property in or about any such building, or to drive over, trespass upon or in any way injure, or damage any curbing, gutter, pavement, or sidewalk in any of the streets of the city, or to cut down, injure or destroy any shade tree or other property standing on any street, alley or public grounds in the city, or to injure, deface or destroy any fire engine, hose, carriage, public system or any fixture or apparatus appertaining to fire department. (July 12, 1894.)

And upon conviction thereof the person so offending shall be fined in any sum not less than one hundred dollars.

§ 2. That it shall be unlawful to wantonly or carelessly deface, destroy, trespass, upon or in anywise damage the private property, real or personal, of any person or corporation within the city, or to wantonly turn on or off the gas of any public gas lamp of the city, or to molest, destroy, remove or injure any water or gas pipe, fire plug, stop cock, gas post, or any fixture or property of any kind belonging to any gas or water company or other corporation in the city; and upon conviction thereof the person so offending shall be fined in any sum not less than two nor more than fifty dollars. (July 12, 1894.)

ARTICLE 15.

Vagrancy.

§ 1. That any able-bodied person who is found loitering or wandering in the city of Frankfort, by day or night, livng an idle, disolute life, not having any estate or visible means of support, and not being able to give any satisfactory account of himself, shall be deemed guilty of vagrancy and shall be arrested, and shall on conviction thereof be fined not less than five nor more than one hundred dollars, and imprisoned in the workhouse not less than thirty days nor more than six months, or both so fined and imprisoned. (July 12, 1894.)

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§ 2. That any able-bodied woman of known bad character found loitering in any saloon or dramshop, or wandering in the streets of the city by day or by night, who is unable to show any proper means of support, or that she is ordinarily engaged in the discharge of some unlawful business, shall be arrested and shall on conviction thereof be fined not less than five nor more than fifty dollars, and imprisoned in the workhouse not less than thirty days nor more than three months, or both so fined and imprisoned. (July 12, 1894.)

CHAPTER 7—OFFICERS.

GENERAL PROVISIONS.

Election of Officers.

§ 1. That at the regular election in November, 1895, and every two years thereafter there shall be elected by the qualified voters of the city of Frankfort a common council composed of five members, four of whom shall be residents of Ward No. 1; four of Ward No. 2; and four of Ward No. 3, who shall enter upon the discharge of their official duties on the first Monday in December next after their election and shall hold office for two years and until their successors are elected and qualified.

§ 2. There shall be elected at the regular election in November, 1897, and every four years thereafter by the qualified voters of the city of Frankfort, a mayor, police judge, prosecuting attorney, and a city marshal, each of whom shall hold his office for a term of four years, and until his successor is elected and qualified.

That all the city officers elected by the common council of the city of Frankfort, except the city tax collector and assessor, shall enter upon the discharge of their official duties on the first day of January next after their election. (Section as amended by Ordinance of Feb. 12, 1906.)

§ 3. There has been elected at the regular election in November, 1893, by the qualified voters of the city at large, a board of education consisting of two trustees from each ward in the city. The trustees so elected shall hold their offices one-half for two years and one-half for four years, as shall be determined by lot at the first regular meeting after the election. And at the general election every two years thereafter, there shall be elected by the qualified voters of the city at large, one trustee from each ward in the city in which the term of his predecessor in office will then expire.

§ 4. There shall be elected by the common council at its first regular meeting in December or within one month thereafter by a viva

Chap. 7. For ward boundaries see Chapter 3, Sec. 6.

For precinct boundaries see Chapter 3, Secs. 7, 8, 9, 10, 11, 12, 13.

§ 2. This section does not apply to the Mayor whose term begins on the first Monday in December, and is fixed by statute. See Ky. Stats., sec. 3292. Charter, sec. 57.

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voce vote, a city attorney, clerk, treasurer and an assessor, each of whom shall hold his office for two years from and after his election and qualification and until his successor is elected and qualified.

The assessor shall appoint one deputy to assist him in the discharge of his duties, who shall possess the same qualifications and have all the powers of the said assessor, and for whose act the assessor shall be responsible. (Deputy added by amendment of Dec. 30, 1911.)

§ 5. There shall be elected by the common council at its first regular meeting in April in each year a collector of taxes, whose duty it shall be to well and faithfully collect, account for, and pay over to the city treasurer, all taxes levied by the city and who shall hold his office for one year, and until his successor shall be elected and qualified.

§ 6. That the mayor shall at a regular meeting in December of each year appoint by and with the advice and consent of the common council ten policemen (one of whom shall be named to act as chief), who shall be commissioned by the mayor in writing, and the commission of all regular policemen shall run to the 31st day of the succeeding December, subject to revocation at the pleasure of the mayor.

Each policeman and the chief of police shall, when on duty, wear a uniform and badge signifying his office. (Sec. as amended by ordinance of Nov. 23-30, 1909.)

§ 7. Each officer by accepting an office undertakes to perform such duties as result from the nature of the office or from law or ordinance whether enacted before or after he becomes an officer. No officer shall become interested, while in office, in any contract with the city, the making or execution of which is connected with his official duty, and no member of the common council shall have any interest, direct or indirect, in any contract with the city of Frankfort, during his continuance in his office of councilman. Any violation of official duty or failure to perform it shall be sufficient cause for the removal of an officer, and shall likewise be a breach of his official bond whether so expressed therein or not.

§ 8. Immediately after each election of officers by the common council the mayor shall cause the person elected to be notified, and any so elected and notified who shall fail to qualify and give bond within ten days shall be deemed to have declined the office and another shall be elected in his place. All vacancies in office shall be filled by the common council unless otherwise provided by law.

§ 9. Each officer of the city on the termination of his official employment, whether by lapse of time, removal or otherwise, shall immediately deliver to the mayor, his successor or such other officer as may be authorized to receive them, all moneys, maps, property and papers, connected with his office or in his custody belonging to the city.

§ 10. Every officer of the city, before entering upon the discharge of his official duties, shall before the mayor, police judge or other person authorized to administer oaths, take an oath faithfully and impartially to discharge the duties of his said office. All official bonds

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required by the charter or ordinances of the city, except in such cases as a special penal sum is fixed, shall be as follows:

City officers Bond.

Whereas ..... has been ..... to fill the office of ....., within and for the city of Frankfort;

Now, we ....., principally, and ..... his sureties jointly and severally, do hereby covenant, agree and bind ourselves to the Board of Councilmen of the city of Frankfort, that the said ..... shall faithfully perform and discharge all, and singularly the duties of said office of ..... during his continuance therein; that he shall pay over, in due time, to the proper persons, on proper authority, all moneys which may come to his hands by virtue of said office, and make out and present to the proper persons, at the proper time, all reports required of him; and shall observe, enforce and obey all statutes, laws and by-laws, orders, rules, regulations and ordinances of said city of Frankfort in relation to said office.

Witness our signatures, this ..... day of ....., 189....

.....Principal.

.....

.....Sureties.

Approved.....Mayor

Attest.....City Clerk.

Bonds wherein a fixed penalty is required shall be as follows:

We ..... principal and ..... his sureties are held and firmly bound unto the Board of Councilmen of the city of Frankfort, in the penal sum of ..... dollars, for the payment of which sum we bind ourselves, our heirs, executors and administrators firmly by these presents.

In testimony whereof, witness our signature this ..... day of ....., 189....

The conditions of the above bond are such, that whereas, the said ..... has been elected to the office of .....; now if he shall well and truly discharge the duties of said office, and pay over and deliver, in due time, to the proper persons, all moneys and property which shall come to his custody, by virtue of said office, then this bond shall be null and void, else to remain in full force and effect.

(Signed .....

.....

Approved .....Mayor.

Attest.....City Clerk.

§ 11. That it shall be the duty of all officers elected under this ordinance, except the policemen who shall be under the control of the mayor, to report to the common council at its first meeting in every month all matters that may be of interest to the city, and which may require the attention of said common council.

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Officers.

§ 12. That it shall be the duty of all officers of the city, whether the said officer be elected by the common council or appointed under acts of General Assembly of the Commonwealth of Kentucky (if said officers have charge of any of the property of said city), to report to the common council at its regular monthly meeting a full and complete report of property, on report blanks furnished them by the city clerk, which shall show the amount of property of every kind on hand at the last report; the amount expended or used since the last report, and amount on hand at the date of the report, together with such remarks as may be necessary to explain said report. No property shall be transferred from one department to another, unless it be upon the requisition of the chairman of the committee having in charge the department to which the property is transferred, indorsed with and order from the chairman of the committee having in charge the department from which the property is taken, directing the transfer, bills of purchase and receipts for all property sold, shall accompany the reports mentioned in the first section, and as vouchers for the same. No article shall be dropped from the report as worthless and of no value, unless the same shall have been first condemned by the committee in charge of the department and reported to the common council, and the condemnation approved by said common council.

§ 13. Any officer who shall fail to make a report as required of him by the ordinances of the city, shall be fined not less than two nor more than ten dollars for failure to do so, recoverable by a warrant before the police judge. (Oct. 23, 1895.)

Janitor.

§ 14. That a janitor for the city hall shall be appointed by the city clerk, whose duty it shall be to attend upon, clean up and take proper care of the city hall, and all the offices therein under the supervision of the city clerk. (Feb. 6, 1894.)

Officers—How Paid.

§ 15. That it shall be the duty of the city workhouse keeper, the city engineer, or other officers of the city having charge of the city employees, to furnish to the city clerk a list of such employees, the time of each, and the amount due each of said employees, and the city clerk shall issue a warrant to each and every individual, as designated by the said lists of the city workhouse keeper, city engineer, and other officers having charge of the city employees for the payment of the amount due each of said employees. (Approved Jan. 27, 1912.)

Officers—Not Allowed Witness Fees.

§ 16. That hereafter it shall be the duty of the several officers in the employ of the city to attend as witnesses in behalf of the city in obedience to subpeona issued by any court held in the city of Frankfort in any suit pending therein, whenever the city is a party thereto, free of charge against the city for witness fees for such services. (May 19th and 26th, 1898.)

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Officers.

ARTICLE 2.

Officers Bonds.

§ 1. That the city officers herein mentioned before they qualify, shall execute bonds subject to the approval of the common council of the city of Frankfort, as follows:

City Clerk	$5,000.00
City Treasurer	50,000.00
City Marshal	2,000.00
City Attorney	5,000.00
City Engineer	5,000.00
City Workhouse Keeper	1,000.00
City Assessor	1,000.00
Treasurer of the Sinking Fund	30,000.00
Police, each	500.00

(Dec. 30, 1911.)

Fire Department.

§ 2. The members of said department shall give bond, with security to be approved by the common council, in the sum of $500 each, for the faithful discharge of their duties, and they shall not enter upon their duties until such bond is executed, and they have taken the oath as prescribed by the charter. (March 10, 1913.)

ARTICLE 3.

Officers—Compensation.

Assessor.

§ 1. That an ordinance passed October 8th and 22nd, 1895, regulating the salaries of officers for the city of Frankfort and fixing the assessor's salary at $300, be and the same is hereby amended so as to read $500, and the said salary of the city assessor shall be $500 from and after the passage of this ordinance, and until otherwise charged. (Dec. 30, 1911.)

Deputy Assessor.

§ 2. The said deputy shall be paid the sum of $200 for his services, by the common council, and the assessor or his deputy shall act as clerk to the board of supervisors without further remuneration or compensation. (Dec. 30, 1911.)

City Attorney.

§ 3. The city attorney shall receive an annual salary of $500 to be paid in monthly installments and in addition thereto shall be furnished an office at the expense of the city not to exceed $100 annually.

Art. 3. Compensation of officer cannot be changed during his term of office. See sec. 161 Constitution and numerous cases cited in notes thereto (Carroll's Statutes): But this does not apply to firemen and policemen. City v. Rennick, 105 Ky., 779, 20 R., 1609; City v. Thompson, 24 R., 384, 24 R., 1998.

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Officers.

Prosecuting Attorney.

§ 4. Prosecuting attorney shall receive thirty per cent of all fines and forfeitures recovered in the police court, which shall be collected and paid into the treasury of the city, the same to be ascertained from the monthly settlements of the marshal and paid upon the order of the common council.

Bridge-Keeper.

§ 5. This said bridge-keeper shall for his services in addition to the use of the dwelling house of the bridge-keeper receive sum of $—— per month, of which amount the city of Frankfort, shall pay the sum of $30, which amount shall be paid to him upon the last day of each month. (Feb. 12, 1906.)

City Clerk.

§ 6. The city clerk shall receive an annual salary of twelve hundred ($1,200) dollars to be paid in monthly installments, and in addition thereto shall be furnished an office in the city hall building at the expense of the city. (Dec. 11, 1905.)

Engineer.

§ 7. That the salary of the engineer be fixed at the sum of one hundred ($100) dollars per month to begin with the term commencing January 1, 1910, said salary to be paid monthly. (Resolution Dec. 30, 1909.)

Fire Department.

§ 8. The members of said fire department, except the chief, shall receive a salary of sixty ($60) dollars per month, each, to be paid at the expiration of each month, as provided by section four, article 10. The chief shall receive a salary of $75 per month, to be paid in the same manner as other members of the department are paid. Said chief shall not reside at the fire department headquarters, and the entire building shall be used for the purpose of the department, including sleeping and recreation rooms for the members thereof.

Sub-sec. 1. Each member of said department shall be allowed a vacation of fifteen consecutive days each year on full pay, at such time as may be designated by the fire committee; and if any member of said department shall be absent at any other time, except when sick, $2 per day for the number of days he is absent, shall be deducted from his salary, and when any member of said department is absent, the remaining members shall discharge the entire duties of the department, and no one shall be employed in his stead. (March 10, 1913.)

Health Officer.

§ 9. That the salary of the city health officer shall be $25 per month, payable by warrant drawn on the city treasurer as other salaries are paid. (April 10, 1905.)

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Janitor.

§ 10. That section of an ordinance entitled an ordinance for fixing the salaries and compensation of certain officers, "Passed Common Council February 4th and 17th, 1902," be and the same is hereby amended to-wit: That portion of said ordinance relating to the salary of the janitor of the city hall and fixing the same at twenty-five ($25) dollars per month be amended by striking out the words and figures twenty-five ($25) dollars per month, where the same may appear and insert in lieu thereof the words and figures thirty ($30) dollars. (Jan. 4-25, 1904.)

City Marshal.

§ 11. The marshal shall receive an annual salary of one hundred and eighty ($180) dollars, to be paid in monthly installments, and in addition thereto, he shall be paid the same fees and commissions now allowed and taxed as costs in the police court, whenever said fees are collected and received by the city in money, the same to be ascertained from the monthly settlements of the marshal, and paid upon the order of the common council, but in no case shall the city be liable for fees or commissions of the marshal unless the same be collected and received by the city in money. (Dec. 17, 1896.)

Mayor.

§ 12. The mayor shall receive an annual salary of $1,000, to be paid in monthly installments (and in addition thereto shall be furnished an office at the expense of the city not to exceed $200 annually).

City Physician.

§ 13. The salary of the city physician shall be $25 per month, payable monthly. (Dec. 17, 1896.)

Policemen.

§ 14. The respective salaries of policemen of the city of Frankfort shall, until otherwise changed by law, be and remain fixed at sixty ($60) dollars per month, payable monthly provided, that the policeman whom the mayor shall designate chief shall receive an additional $15 per month, making $75 per month for his services. (Jan. 31, 1903.)

Police Judge.

§ 15. The police judge shall receive an annual salary of $1,000, to be paid in monthly installments, and in addition thereto shall be furnished an office in the city hall building at the expense of the city.

Tax Collector.

§ 16. The collector of taxes shall as compensation for his services receive a commission of two per cent on all sums collected by him during the first two months, the tax books are in his hands; to be paid by

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the city and for the third month there shall be added to all property tax a penalty of one per cent, which penalty on all sums collected by the tax collector during the third month shall be paid to and for the benefit of the tax collector; and for the fourth month there shall be added to all property tax a penalty of two per cent, which penalty on all sums collected by the tax collector during the fourth month shall be paid for the benefit of the tax collector; and on any balance of property tax remaining, a penalty of 5 per cent shall be added which the tax collector shall receive as commission for collecting same, and on all pole tax of citizens listing no property the tax collector shall receive a commission of 33 1-3 per cent; and on each and every pole tax not paid in ninety days from time same is listed with the collector, there shall be added a penalty of twenty-five cents to be paid by the taxpayer, to be paid to and be for the benefit of the tax collector, in addition to the commission of 33 1-3 per cent above mentioned. (Oct. 23, 1895.)

Treasurer.

§ 17. The Treasurer shall receive an annual salary of one hundred dollars, payable monthly. (Sept. 25, 1894. Amended Oct. 23, 1895.)

Workhouse Keeper.

§ 18. That all supplies for said workhouse and all provisions for the maintenance of the workhouse keeper and his family, and all prisoners committed to said workhouse, shall be furnished at the expense of the workhouse keeper; and for his services the workhouse keeper shall receive an annual salary of $720, payable monthly as provided by ordinance passed Sept. 25, 1894. (Nov. 4, 1893.)

§ 19. The workhouse keeper shall receive in addition to the salary now allowed by ordinance for board of prisoners the sum of sixteen cents per meal each during the time that they may be confined in the workhouse, same to be paid on order of the common council when allowed and approved by the workhouse committee. Nov. 23-30, 1909.)

ARTICLE 4.
OFFICERS—SPECIFIC DUTIES.

Assessor.

§ 1. The assessor and his deputies before entering upon the duties of the office shall in addition to the constitutional oath take the following oath:

"I do swear that I will fix the value of all property to be listed by me at a fair cash value, estimated at the price it would bring at a fair voluntary sale, without favor or partiality that I will diligently search and inquire so that no person shall be passed over or fail to have an opportunity to give a list of his taxable property, that I will truly report all persons who shall fail or refuse to list their taxable property after being called on, by me for that purpose, or who has given a false or fraudulent list, so help me God."

(Art. 4).

For further duties of Assessor, see Chapter on Revenue and Taxation.

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ARTICLE 5.

Attorney.

§ 1. The city attorney shall be the general law officer of the municipality. He shall attend all meetings of the common council, executive and open, and shall prepare all contracts and other legal documents of, to and with the city and shall give legal advice to the common council and all other city officials in all matters pertaining to their duties or affecting the interests of the city of Frankfort, whether called on to do so or not, and if requested such advice shall be in writing for future references. He shall when called on by the common council, take proper legal proceedings to enforce the collection of all claims and dues owing to the city, and he shall with such assistance as may be deemed necessary and provided, prosecute or defend for the city all actions that may be instituted wherein the city is a party or is in any manner interested, except prosecutions in the police court and appeals therefrom, and he shall annually present to the common council a detailed statement of the business of his office, showing the disposition of cases determined during the year, and the condition of all the cases pending in court, wherein the city is a party, and he shall perform such other duties pertaining to his office not inconsistent herewth as may be hereafter prescribed.

§ 2. In addition to his salary the city attorney shall be paid his expense when it shall be necessary for him to go out of the city to attend to legal business for the city and ten per cent upon all sums recovered and collected by him for the city. (March 19, 1904.)

ARTICLE 6.

Bridge Keeper.

§ 1. There shall be appointed by the bridge committee of the common council, who shall act in conjunction with a like committee from the county of Franklin at the first meeting of said committees held in the month of January, 1906, and in January every two years thereafter, a bridge keeper for the St. Clair street bridge, said bridge keeper shall enter upon the discharge of his duties on the first day of February, 1906, and shall hold his office for two years from that date, and shall be required to give bond for the faithful discharge of his duties.

§ 2. It shall be the duty of the bridge keeper to clean and repair said bridge, as far as he is able to do so and to inforce all ordinances of the city in any way pertaining to said bridge, and do and perform any and all duties imposed upon him by the bridge committee. (Feb. 12, 1906.)

Art. 5. (1) Attorney for city has no authority to compromise taxes. City of Louisville v. Louisville Railway Co., 23 R., 390; Keller v. Wilson, 90 Ky., 350, 12 R., 471. He has no authority to employ assistant counsel. City of Bowling Green v. Gaines, 29 R., 1014. Mayor cannot employ additional counsel as a rule, but may under emergency. City of Louisville v. Murphy, 9 R., 310, 86 Ky. 53, City of Owensboro v. Wier, 15 R., 506, 95 Ky., 158. Election of by council. Majority not required under certain circumstances. Wheeler v. Com., 17 R., 636.

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ARTICLE 7.

Board of Common Council.

§ 1. That the regular meeting of the common council shall be held on the second and fourth Mondays in each month at 8 o'clock, p. m., and the following shall be the standing rules of the common council for the preservation of orders and the dispatch of business. (Sec. as amended Jan. 4, 1904.)

Rule No. 1. The mayor shall preside at all meetings, preserve order and decide all questions of order, subject to the decision of a majority of the board on appeal; and in case of disability or absence of the mayor, the mayor pro tem shall preside; not less than seven members shall constitute a quorum to do business, but a smaller number may adjourn from time to time and compel the attendance of absent members.

Rule No. 2. Every member present when a question is put shall vote unless interested or excused.

Rule No. 3. Every motion or proposition shall if the mayor or any member requires it to be reduced to writing.

Rule No. 4. Any motion, resolution or proposition may be withdrawn by mover at any time before amendment or decision.

Rule No. 5. In all cases where it is doubtful whether a motion has prevailed the mayor may direct or any member call for a decision.

Rule No. 6. Any member wishing to speak shall arise and address themselves to the mayor, and the mayor shall announce the name of the member entitled to the floor, and no member shall be allowed to speak more than twice at the same meeting on the same question without leave of the council.

Rule No. 7. The motion to adjourn shall always be in order except when a member is addressing the council or the council is engaged in voting, and the motion to adjourn shall be decided without debate.

Rule No. 8. The vote on all questions coming before the council shall be a viva voce and upon the call of any member, the ayes and nays shall be entered on the journal.

Rule No. 9. No personalities or reflections injurious to the feelings of any member shall be indulged in.

Rule No. 10. No business regularly before the council shall be interrupted except by a motion for adjournment for the previous question for postponement; for commitment or for amendment.

Art. 7. Counsel assessment of property by ordinance. Owensboro v. Callahan, 13 R., 418. Defacto Councilman—Powers of. Pence v. City of Frankfort, 19 R., 721, 101 Ky., 534. Dropping hindmost candidate in elections. Wheeler v. Com., 98 Ky., 59, 19 R., 636. Office—Power to Abolish Those it Creates. Board of Councilmen v. Brawner, 18 R., 648, 100 Ky., 166.

Ordinances inconsistent with charter repealed. Wettington v. City, 21 R., 960.

Powers conferred by charter cannot be delegated to others. Louisville v. Parsons, 150 Ky., 421; Bowling Green v. Gaines, 29 R., 1014.

Yeas and nays on passage of ordinance —Entry in Journal. Becker v. City of Henderson, 100 Ky., 450, 18 R., 881.

Veto—Effect of Failure of Clerk to Lay Before Council. Brown v. Winchester, 153 Ky., 502.

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Rule No. 11. The previous question may be moved by one member if duly seconded, and shall be determined without debate, but when motion for the previous question has been sustained it shall not cut off any pending amendment, but the vote shall be taken without debate on the amendment in their order, and then on the main question.

Rule No. 12. Every ordinance before the same takes effect or becomes binding, shall be twice publicly read and passed by the common council and two sessions held on different days, a majority of those present voting for same on both passages, the ayes and nays being called and entered on the journal; and all ordinances requiring the improvement of streets and alleys or the construction of sewers or fixing salaries, or prescribing penalties, or fixing the rate of taxation or amount of licenses, or appropriating money when the amount appropriated is in excess of $100 shall on each passage receive the vote of two-thirds of all the councilmen then elected, the ayes and nays being called and entered on the journal.

Rule No. 13. The following shall be the established order of business at the regular meetings of the common council, viz.:

1. Roll call.
2. Reading journal of previous meeting.
3. Petitions and remonstrances.
4. Reports of officers.
5. Reports of committees.
6. First reading of ordinance.
7. Second reading of ordinances.
8. Elections.
9. Unfinished business.
10. New Business, presentation and allowance of accounts and claims.

Rule No. 15. The commmon council may at any time resolve itself into a committee of the whole on the State of the city.

Rule No. 16. In forming a committee of the whole the mayor shall leave the chair and shall appoint a chairman to preside in said committee.

Rule No. 17. The rules of proceedings in the common council shall be observed in committee of the whole so far as they are applicable.

Rule No. 18. No standing rules or orders of the common council shall be dispensed with unless two-thirds of the members elect are concerned therein.

Rule No. 19. The mayor may when he deems it expedient and shall upon a written request of a majority of the members of the council call a special meeting of the council, but in the call he shall designate the purpose of same and no other business shall be considered.

§ 2. The mayor and every member of the common council, city attorney and city marshal, shall attend all meetings of the common council and any of the above named officers, except members of the common council who shall absent themselves from any regular or called meet-

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ing of the council without a good and sufficient excuse therefor, or who shall violate any of the provisions of this ordinance shall be fined not exceeding $2 for each offense, same to be entered on the journal of the common council, and enforced by the mayor, in the same way that fines for contempt are enforced. (April 10, 1894.)

Committees.

§ 3. In order to facilitate the business of the city government, to more carefully scrutinize all matters involving the expenditure of the cities, revenues and moneys, and to guard against errors and overcharges in accounts against said city, there shall be appointed by the mayor, selected from the members of the said common council, the following sixteen standing committees, to-wit: Bridge, building, charity, Finance, fire, gas, hall, health, license, ordinance, police, printing, schools, streets, water and workhouse, which shall consist of three members each and the first named by the mayor on each committee shall be its chairman.

§ 4. It shall be the duty of the respective committees to hold their meetings subject to the call of their respective chairmen, and to hear and carefully consider all matter coming properly before them, whether by reference of common council or otherwise and to report on same to the first succeeding meeting of the common council.

§ 5. That no report of any committee shall be considered as approved by said committee, until same shall have been signed by at least two members of the committee having the matter under consideration, but nothing in this ordinance shall preclude one member from filing a minority report. (Jan. 4, 1904.)

ARTICLE 8.

City Clerk.

§ 1. The city clerk shall have his office in the building known as the city hall, and shall be present at and keep his office open from 9 o'clock a. m. to 12 m. and from 2 o'clock p. m. to 5 p. m. each day; Sundays and legal holidays excepted. (April 26, 1894.)

§ 2. It shall be the duty of the clerk to be present at all meetings of the common council and to keep full and accurate minutes of its proceedings to record same before the next regular meeting in a journal to be kept by him for the purpose, and to furnish a complete index thereto; and at each regular meeting the proceedings of the previous regular meeting, and any intervening special meeting or meetings shall be publicly read by the clerk, and if correct and approved, shall be signed by the mayor and attested by the clerk. (April 26, 1894.)

The clerk shall also record and properly index in a separate book all ordinances which have been passed by the common council and approved by the mayor as prescribed by law. He shall be custodian of the seal of the city, and shall attach the impress thereof to all docu-

For further duties of City Clerk, see Chapter 9, (Revenue and Taxation).

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ments which by law require the same; and he shall neatly and securely keep in his office all the public records, books and contracts, bonds, receipts, vouchers, ordinances and other important papers of the city, and shall exhibit the same to any person interested therein, at all reasonable times. (April 26, 1894.)

§ 3. The clerk shall be the general accounting officer of the city, he shall audit all claims, and demands in favor of or against the city, and shall keep the accounts of the city with the officers and employees, thereof and with contractors, and all persons doing business with or for the city, he shall keep the accounts with all persons, collecting taxes, fines, forfeitures or other revenue due the city, he shall not himself receive, but shall grant written permit to the city treasurer, to receive all sums due the city from officers or other persons; which permit shall give the name of the person, the amount to be paid in and the fund to which it belongs, he shall draw his warrant on the city treasurer, specifying the fund from which payment is to be made, for any money found to be due and owing by the city, the expenditure of which has been duly authorized, provided however, no warrant shall be issued by the clerk unless there is money actually in the treasury to the credit of the specific fund. The clerk shall issue all licenses prescribed by ordinance or granted by the common council upon the production to him of the receipt of the treasurer of the board of sinking fund commissioners, showing that the correct amount has been paid and he shall charge the treasurer of the board of sinking fund commissioners with the amount of such receipt, and preserve the same in his office. (April 26, 1894.)

§ 4. He shall keep a register of all warrants of permits by him issued showing in due succession the date, number and amount of such warrant or permit, for what and to whom issued and in numbering his warrant and permit he shall begin the first day of June and end the 31st of may, inclusive, of each year. He shall so keep the accounts in suitable and proper books, that they will truly and clearly exhibit the amount of all moneys paid into the city treasury, and the sources from which derived, and shall enter every fund which by law or ordinance is made a separate fund, under its appropriate head crediting each fund with all moneys paid in on account thereof, and charging it with all appropriate sums thereof, and all warrants drawn thereon; and also exhibit the amount of public expenditures, and each item thereof. (April 26, 1894.)

§ 5. The clerk shall also keep a bill book in which he shall enter all bonds, notes, bills and other obligations given by, or payable to the city, with the name of the person by or to whom principal and interest are payable and if bonds are payable to bearer, he shall enter in said book, the date when and where the interest on same is payable, and the rate of interest which the same draws; and he shall also enter therein the amount of interest which the city owes annually as guarantors of any other corporation, giving the rate and when and where the same is payable. (April 26, 1894.)

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Officers.

§ 6. The clerk shall truly exhibit all balances due by and to the city and shall report same to the common council monthly; and shall report to the mayor and common council at any time when required, any information connected with the business of his office; and on the 15th day of June, 1895, and annually thereafter, on the 15th day of June, he shall propose for publication and render to the common council a full detailed statement of the city's business, embracing all the receipts and expenditures for the fiscal year preceeding; and he shall perform such other duties as the common council may require of him.

§ 7. The clerk shall not draw his warrant on the city treasurer in favor of any person indebted to the city, or the assignee of such person, except for balance which may appear to be due such person over and above the debt due the city, nor in favor of any officer who is in or in default to the city. (April 26, 1894.)

§ 8. If any officer neglects or refuses to make adjustment of his accounts, and to pay over the money in his hands due the city to the treasurer in the proper time, as required by law, it shall be the duty of the clerk to give written notice to such officer and his sureties, to make settlement of his accounts with the clerk, and to pay over the balance of moneys found to be due and in his hands belonging to the city, and if after being notified such officer still refuses or neglects to adjust his accounts and pay over said balance to the city treasurer it shall be the duty of the clerk to report the delinquency of such officer to the common council. (April 26, 1894.)

§ 9. The clerk shall prior to entering upon the duties of such office take the oath required by law and give bond with two or more sureties to be approved by the mayor, in the sum of five thousand dollars, payable to the board of councilmen of the city of Frankfort, conditioned to well and truly discharge the duties of his office, according to the laws of Kentucky and the ordinances of the city now in force or such as may be hereafter passed, pertaining to such office; and for his services he shall receive $1,200 per annum, payable monthly; and for all attested transcript of ordinances, resolutions, orders and documents other than those ordered by the common council, the same fees shall be paid him as are allowed to the county clerk for similar services. (April 26, 1894.)

§ 10. In case of a vacancy in the office of city clerk, or of his absence from the city or from sickness or other inability to perform his duties, the mayor shall audit and settle all accounts or claims on the city, and shall sign in place of the clerk all warrants on the treasurer. (April 26, 1894.)

§ 11. That in addition to the duties heretofore imposed upon the city clerk by ordinance entitled "An ordinance defining the duties of the city clerk," approved April 26, 1894, it shall be the duty of the city clerk to make and prepare typewritten copies of all orders, resolutions and ordinances, for the improvement and construction of streets and sidewalks that may be necessary for the fullfillment of the provisions of the charter requiring the improvements of such streets and sidewalks, &c., without additional compensation. (Nov. 14, 1899.)

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Officers.

ARTICLE 9.

City Engineer.

§ 1. That there be, and is hereby established the office of city engineer who shall keep an office in the room adjoining and communicating with the council chamber in the city hall building.

§ 2. The city engineer shall be elected by the common council and shall hold his office until the first Monday in December, 1897, and thereafter shall be elected, and hold office in the manner, and for the same term as city attorney and other officers (except the collector of taxes) are elected by the common council.

§ 3. The city engineer elected under this ordinance shall be paid a salary at the rate of $1,200 per annum, payable in monthly installments.

§ 4. The city engineer shall establish and fix the grade for all street and sidewalk improvements, and shall see that all public works and improvements are executed according to contract, plans and specifications, and certify to same, and shall perform all other duties required of him under the charter of the city, as prescribed from time to time by ordinance. (March 17, 1897.)

ARTICLE 10.

Fire Department.

§ 1. That for the prevention and extinguishment of fire there is hereby organized, created and established a department to be known as the Frankfort Fire Department.

§ 2. Said fire department shall consist of one combination chemical and hose motor car, fire alarms, telegraph system, necessary hose and hose wagon, hook and ladder wagon, horses, such as from time to time may be deemed necessary, harness, ladders and other necessary apparatus with the buildings wherein same are required to be kept.

§ 3. Said fire department shall be composed of six members, one of whom shall be chief. They shall be elected by the common council at a regular meeting in the month of December, every two years and shall hold their office for a period of two years until their successors are elected and qualified, subject however, to removal by the common council. No person shall be elected a member of said fire department, who at the time of his election is under the age of twenty-one years, and not an actual bona fide resident of the city of Frankfort for two years next preceding his election. The members of said department shall give bond with security to be approved by the common council, in the sum of $500 each, for the faithful discharge of their duties, and they shall not enter upon their duties until such bond is executed, and they have taken the oath as prescribed by the charter.

Art. 10. Firemen cannot assign salary. Schmitt, Auditor, &c. v. Doolin, et al., 145 Ky., 240.

City not liable for negligence of Fire Department, resulting either in damage to property or for personal injury. Greenwood v. Louisville, 13 Bush, 226, Davis v. Lebanon, 108 Ky., 288, 22 R., 384. Haefel v. City of Owensboro, 30 R., 628; Terrell v. Louisville Water Co., 127 Ky., 81.

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Officers.

§ 4. The chief shall, subject only to the general supervision of the fire committee and the common council, have control of and be responsible for the management, care and good working condition of the fire telegraph system, combination chemical and hose motor car, horse, hose wagon, hook and ladder wagon, horses, harness, fire hydrants and all other apparatus appertaining to or connected with said department, and to that end shall make frequent visits to and thorough examinations of every branch and article thereof. He shall be present at all fires, when precticable, and see that a proper application is made of the means at his control for the extinguishment thereof; and shall assume the sole commond thereat over all members and employees of the fire department. The chief shall annually report to the common council, in writing, the amount, character and condition of all property connected with said department, together with the conduct and efficiency of the persons employed therein, and the number, extent and causes of fires within the city during the year, and such other information as he may deem proper for the consideration of the common council. He shall at the end of each month make out a pay roll showing the amounts due the regular members of the said department in their respective capacities during the preceding month, the number of days each performed his duties and the amount of pay due each; which pay roll, when examined and certified as correct by the fire committee and approved by the mayor, it shall be delivered to the city clerk, and it shall be the duty of said clerk to issue his warrant on the treasurer for the amount due in favor of each individual member thereof; and the said clerk shall require each of said members of said department to sign the pay roll in the presence of the clerk.

§ 5. It shall be the duty of the chief to see that all fire apparatus, including the combination chemical and hose motor car, horses, wagons, and harness are kept neat and clean at all times, and to see that the sleeping rooms are kept clean, sanitary and neat; to see that the fire alarm system and all apparatus pertaining to the department are always in readiness for immediate fire service. He shall have charge and control of the fire hydrants, and it shall be his duty to inspect them once each month, and if any of said hydrants are found out of working order, it shall be his duty to notify the Frankfort Water Company, in writing, forthwith, specifying the hydrant or hydrants out of working order, and shall report to the Board of Councilmen at its meeting the date of said examination, the result thereof and his action in regard thereto.

§ 6. Each member of said department shall be responsible for all property and apparatus in his immediate charge.

§ 7. Any member of the fire department who shall be guilty of intoxication at any time, or shall enter a saloon while on duty, or be guilty of any outrageous conduct or neglect of duty, shall be expelled from the department by the common council.

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§ 8. The chief and every member of the said department must be dressed in full uniform, including the cap, at all times when on duty, except when actually engaged in cleaning up the premises, and must remain within two hundred feet of the engine house, except to answer alarms, going to and from meals, or engaged in some duty connected with the department.

§ 9. No loafing shall be allowed in or about the engine house. There shall be no admittance to the engin house by persons not members of the fire department except on business or by permission of the chairman of the fire committee or the chief.

§ 10. That the fire committee of the common council shall have a general supervision over all matters pertaining to said fire department, and it shall be the duty of said committee to see that the rules and regulations for the government of said department are faithfully complied with; and all repairs done and materials and supplies furnished for said department shall be procured, only upon the written orders of the fire committee signed by the chairman of said committee, and same shall be paid for by warrants drawn on the city treasurer in favor of the claimant's after claims have been duly approved by the fire committee and allowed by the common council. The fire committee of the council, and the mayor shall, from time to time prescribe such additional rules for the government of the department as may be necessary. (March 10, 1913.)

ARTICLE 11.

City Marshal.

§ 1. That in addition to the duties prescribed by the charter it shall be the duty of the city marshal to see that the laws and ordinances of the city are executed, and shall give information to be instituted for all offenses against the ordinances of the city, or against the laws of the Commonwealth committed within the limits of the city, or within one mile thereof, he shall arrest all persons actually engaged in any riot, rout, unlawful assembly or breach of the peace, or any person whom he may have reasonable cause to believe guilty of any offense, and take them before the proper officer, to be dealt with according to law.

§ 2. He shall cause to be removed all dead carcases and other offensive matter found upon the city's property, or upon the streets and public ways of the city cleansed whenever necessary, at the expense of the city. And on receiving information of any dead carcases or other offensive matter upon the premises of any person it shall be his duty to forthwith inspect the premises complained of and immediately notify the owner or occupant to remove or abate same, and if not done in one day, the marshal shall proceed to remove or abate same in the manner provided by ordinance for the abatement of nuisances.

Art. 11. Fees cannot be paid to Marshal until money paid into treasury. Ordinance allowing fees when defendant works out fine invalid. Withington v. City of Owensboro, 21 R., 960.

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§ 3. He shall attend all sessions of the common council and shall attend daily the sessions of the police court and wait upon and perform similar duties therein to those performed by sheriffs in the circuit court, and with like power shall execute all process, rules and orders of and issued by said court, he shall collect all fines fee, penalties and forfeitures on recognizances and penal bonds recovered in said court; and shall report monthly in writing to the common council showing under their respective heads the amount of fines, fees, and costs and commissions collected in such case, and when and by whom paid; and he shall quarterly in each year, on the first Monday in January, April, July and October, make a full and complete settlement of all his collections as marshal for the three months preceding and as soon as said statement or settlement has been examined and certified by the prosecuting attorney and police judge, and approve by the common council, the marshal pay to the city treasurer for the benefit of the general revenue fund the amount so found to be due the city, taking the treasurer's receipt therefor, which he shall deliver to the city clerk who shall in like manner give a receipt to the marshal for the amount so paid. (Sept. 25, 1894.)

§ 4. That the office of city marshal be and the same is hereby abolished. That the duties now imposed by law, upon the city marshal, shall hereafter be performed by the chief of police. (March 10, 1913.)

ARTICLE 12.

Tax Collector.

§ 1. That the tax collector, shall before entering upon the duties of his office, take the oath prescribed by law, and give a bond with sufficient sureties to be approved by the common council in the sum of $50,000, conditioned that he will pay over all moneys coming into his possession belonging to the city, and will faithfully perform all the duties of his office. (May 8, 1894, as amended Dec. 30, 1911.)

And he may subject to the conditions and responsibilities provided in sec. 125 of the charter, appoint a deputy collector. (May 8, 1894.)

ARTICLE 13.

City Treasurer.

§ 1. The city treasurer shall, before entering upon the duties of his office, take an oath to faithfully discharge all the duties of his office and execute bond, with security worth at time, jointly or severally, fifty thousand dollars, to be approved by the common council, and filed in the office of the clerk, for a faithful discharge of the duties of his office; upon which for any breach, suit may be instituted, from time, and

Art. 12. For further duties of Tax Collector, see Chapter 9, Revenue and Taxation.

Tax Collector—Franchise taxes—Omitted lists—Sureties —Settlement—Quietus. Delker v. City of Owensboro, 22 R., 1777.

Art. 13. Treasurer—Increase of duties creates no implied obligation to increase salary. City of Covington v. Mayberry, 9 Bush, 304.

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recovery had, to the extent of any damages sustained by the city or by others. (Sept. 25, 1894, as amended Dec. 30, 1911.)

§ 2. The treasurer shall reside and keep his office within the city of Frankfort. Upon the expiration of his term, or resignation of his office, his death, or removal from office, the mayor and city clerk shall examine his accounts, state the same, count the money in the treasury, and take an inventory of the books, stationary and furniture of his office, belonging to the city, which shall be passed to his successor, who shall receipt for same, which receipt shall be filed in the office of the city clerk. (Sept. 26, 1894.)

§ 3. If the treasurer is sick and unable to discharge the duties of his office, or if he is absent himself from the city, it shall be his duty to recommend in writing, to the mayor some person to discharge the duties for him during such sickness of absence; and if the mayor approve the recommendation, he shall endorse the same "approved" and sign his name thereto and file it with the clerk, who shall at the next meeting of the common council, report same, when it shall be entered upon the record; after the approval bythe mayor the person so recommended may on taking the usual oath, perform the duties of the treasurer until that officer is restored to health or returns to the city unless the council shall, by order, suspend him. The treasurer and his sureties shall be responsible on their official bonds for the acts of the person there appointed by the treasurer. (Sept. 26, 1894.)

§ 4. When in the opinion of the mayor, the funds of the city are in danger, by being under the control of the treasurer, he shall have power to suspend him from his official duties, and forthwith call a meeting of the common council to whom the facts shall be reported and the case investigated and decided without unnecessary delay. During such suspension of the treasurer the common council shall make proper provision for the safety of the moneys of the city. (Sept. 26, 1894.)

§ 5. He shall keep in appropriate well-bound books, to be provided by him at the expense of the city, true accounts of all money paid into the treasury, by whom, when and on what account paid. He shall keep the accounts of the sinking fund distinct from each other and from the ordinary revenue of the city; and in like manner he shall keep a true account of all sums paid out when, to whom, and for what paid. The accounts shall be kept so as to exhibit the amount received and disbursed on account of each of said departments of the city's funds. (Sept. 26, 1894.)

§ 6. He shall on the 31st day of May in each year, make a clear, distinct and intelligible report of all money received by him and disbursed during each year, in which he shall exhibit the receipts and expenditures of each month on account of each department aforesaid, which report shall be laid before the common council, and when approved by them, entered at length on the records. He shall in addition make a settlement of his accounts with the clerk on the last day of each month, which settlement shall exhibit the fiscal transactions of the month and shall

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be laid before the common council at the next succeeding regular meeting and if approved, shall be spread upon the record. If any inaccuracy appear in said settlement, or any members of the common council so require, it shall be referred to the finance committee who shall investigate and report thereon promptly. (Sept. 26, 1894.)

§ 7. The finance committee of the common council shall during the first twenty days in the month of June of each year, personally examine into the state of the treasury, examine all papers or vouchers upon which money has been paid out for the preceding year, ascertaining the amount paid into and paid out of the treasury and the amount on hand; and notice any misapplication or perversion of the funds of the city by the treasurer or others. Said committee shall also examine the books and accounts of the clerk, and in said examinations shall carefully note without defacing, all the treasurer's receipts which are the foundation of a charge against him, in such manner as will plainly show that said receipts have been examined by said committee. The committee shall report to the board the facts fully and truly, which report shall be spread upon the records of the common council. (Sept. 25, 1894.)

ARTICLE 14.

Police Judge.

§ 1. The police judge shall keep an office in the city hall building and daily attend at the police court room and preside in the police court, and shall issue all warrants, processes, rules, orders, capiasses, and executions required in cases coming before the court, and he shall hear and determine all cases coming before him for violations of the ordinance of the city or laws of the State of which he has jurisdiction, and in case of disability or unavoidable absence of the police judge, the mayor shall appoint some one possessing the required qualifications to preside over the police court.

§ 2. The police judge shall in a book provided for the purpose correctly record the character and disposition of all cases coming before him, and shall report monthly to the common council the number of persons arranged before the court, when and for what the amount of fine and costs assessed and the amount collected and by whom collected, the number committed to the workhouse with the time of such commission, and if the fines are replevied, when and by whom replevied.

Art. 14. **Police Judge**—May be paid for extra clerical work in addition to salary. Gorin v. City of Bowling Green, 30 R., 1160.

Has no jurisdiction to try for offenses committed outside of city limits. Earle v. Latonia, 32 R., 469 and 586.

Has jurisdiction over bawdy house case where penalty fixed by ordinance is less than that fixed by common law. City of Owensboro v. Simms, 17 R., 1393, 99 Ky., 49.

Has concurrent jurisdiction with circuit court for offense of gaming, but cannot, by ordinance acquire exclusive jurisdiction. City of Owensboro v. Sparks, 18 R., 269, 99 Ky.. 351.

Has exclusive jurisdiction of those offenses only which become such by reason of the passage of an ordinance denouncing that as an offense which was not already such under a statute or the common law. Commonwealth v. Hunter, 19 R., 1109.

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§ 3. That in all cases wherein fines are imposed in the police court, it shall be the duty of the police judge to specify in the judgment that unless such fines and costs be, at once paid or replevied the same shall be satisfied by labor in the workhouse or on the streets and alleys of the city, or in some public work, of the city, at the rate of $1 per day, provided that if any part of any fine and costs is paid or replevied after commitment to the workhouse, the workhouse, the person theretofore confined therein shall have credit upon the judgment rendered against him for the number of days he shall have been confined, at the rate of $1 per day.

ARTICLE 15.

Workhouse Keeper.

§ 1. That a keeper of the workhouse may be selected by the common council, either by election or upon the lease system heretofore tried, as in their judgment they may deem best for the interest of the city. He shall execute bond to the city, to be approved by the mayor and common council conditioned to pay the city all moneys he may become liable for as keeper, and for a faithful discharge of all his duties as such keeper.

§ 2. He shall have the superintendance of the workhouse and station house; and shall keep regular account books in which the workhouse shall be charged with all things necessary for its support and otherwise received.

§ 3. The keeper shall reside in the residence at the workhouse, and have care of the workhouse, grounds and property, and of all persons there confined; he shall daily visit all of the apartments, and keep them clean and in good order, and shall personally superintend the custody and employment of the prisoners.

§ 4. He shall keep a record book of commitments and discharges of prisoners, registering, name, age, height, color, offense for which committed, and other proper facts. He shall keep the prisoner at same healthful employment at least ten hours per day in April, May, June, July, August and September and nine hours per day during the remainder of the year.

§ 5. That any prisoner who shall behave in a riotous or disorderly manner, or refuse to work or to obey the orders of the keeper or shall attempt to escape, may be committed to close and solitary confinement upon bread and water, or if necessary, put in irons by order of the keeper, but shall not be cruelly treated.

§ 6. He shall give proper attention to all prisoners who are sick and not able to work; and shall cause the city physician to be sent for, and see that proper nursing and care be given such prisoners.

§ 7. He shall report monthly to the common council the names and number of prisoners confined in the workhouse, the number of days each prisoner worked and a statement of the work done by them, and its value, and any other facts he may think proper to report in reference to the workhouse.

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§ 8. The books, workhouse and premises shall always be open to the inspector of the mayor, police judge and common council or any member thereof.

§ 9. That any person confined in the city workhouse under sentence from court having jurisdiction or while at work, outside of said workhouse or while in the custody of any workhouse officer, who shall escape from said workhouse or custody shall, upon conviction in the police court of such escape, be sentenced to work out double the unexpired term of his sentence.

§ 10. That the workhouse keeper shall in no case allow an inmate of said workhouse to leave the same, who is under sentence thereto, unless he be taken therefrom for the purpose of work under his sentence, or unless released by order of the police judge. For any violation of this section the keeper shall be fined not less than $5 nor more than $10.

§ 11. In all cases where the fines are imposed in the police court the city of Frankfort, unless the fine and costs are at once either paid or replevied, it shall be the duty of the judge of said court to issue and deliver a capias profine to the marshal of the city, who shall at once arrest and deliver the person so fined to the keeper of the city workhouse, who shall safely keep said person until he shall have discharged said fines and costs by labor in workhouse, or on the grounds belonging thereto, or on the streets and alleys, or any public work of the city, at the rate of $1 per day. Provided, that where the person so fined shall pay or cause to be paid, at any time, the balance of the fine and costs for which he was committed to said workhouse remaining unpaid, then said judge shall, upon evidence of such payment order said person to be released from said workhouse; provided, further, that all fines or parts of fines and forfeitures may for good cause shown, be remitted by the council and city clerk shall certify such remission in writing to the police judge; but in no case shall a prisoner be released from said workhouse, except upon the written order of said judge.

§ 12. That in case of any escape from the workhouse of any prisoner confined therein by judgment of the police court, or other proper authority, the keeper shall be charged with the full time of such prisoner (except Sundays) unless released by the common council by an order made in the particular case upon its merits; but in no case shall he be released from the payment of so much of said time as may be necessary to cover and pay all costs and expense in the particular cases. (Sept. 25, 1894.)

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CHAPTER 8—POLICE REGULATION.

ARTICLE 1.

Bill Posting.

§ 1. It shall be unlawful to paste, tie, hang up, or in any manner attach to the iron bridge across the Kentucky river, from St. Clair street to Bridge street any advertisement, poster, sign, hand bill, trademark, or placard of any description, or to paint, mark, write or paint any notice or advertisement of any kind thereon, or in any manner to injure or deface said bridge structure, and any person who shall violate any of the provisions of this action shall on conviction thereof in the police court be fined not less than five ($5) dollars, nor more than twenty-five ($25) dollars.

§ 2. That it shall be unlawful to paste, or post any advertisement poster, sign, hand bill or placard of any description upon any public or private building, or upon any tree, post, fence, pole, bill board, steps, sidewalk, curb stone or any other structure or thing whatever, the property of another without permission of the occupant or owner of the same, and any person violating any of the provisions of this section shall on conviction thereof in the police court, be fined not less than $2 nor more than $20 for each offense; and provided also that it shall be unlawful for any person or corporation to stick, post or attach any advertisement, poster, sign, hand bill, or placard of any kind or description upon a pole or poles of any telegraph, telephone, street car or electric light company, within the city, without having first obtained permission from the common council so to do. (April 10, 1894.)

Bill Boards.

§ 4. That no person or persons, individual or corporation shall erect or construct upon his property or the property of another, a bill board for the use of posting bills or other thing for advertisement, in the city of Frankfort, without first obtaining a permit from the common council so to do, and every application, to build or erect or construct, such a bill board, shall be accompanied with signers of two-thirds the adjoining property owners within two hundred feet of the place where said bill board is proposed to be erected or constructed agreeing thereto. (Jan. 25, 1911.)

ARTICLE 2.

Building Regulations.

§ 1. It shall be unlawful for any person or corporation to have any building erected, remodeled or repaired in the city of Frankfort, the cost of which shall exceed one hundred dollars within one year, without first obtaining a permit for that purpose as specified in this ordinance. Provided, that nothing herein shall be construed so as to require permits for repairing houses by painting, or by any work which does not effect the exterior walls or materially change the interior por-

4. No penalty is fixed for a violation of this section.

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tions of the house; and it shall be unlawful to occupy any portion of the public streets, alleys or sidewalks by building materials without first having obtained a permit for that purpose as hereinafter stated.

§ 2. Any person desiring to have a house or other building erected in the city of Frankfort, or to have one altered, repaired or enlarged, where the cost will exceed one hundred dollars, shall make a written application for a permit to the common council filled out on a printed form to be furnished by the city clerk and signed by the property owners within two hundred feet, which application shall set forth the exact location where it is proposed to erect the building, the estimated cost of same, the estimated time for completion, the dimensions of the building, material to be used in its construction, the thickness of the outerwalls and a sketch of the plan of the building. If the application is for a permit to alter and enlarge a building, said application shall set forth the character of the proposed alteration or enlargement, and state the thickness of any walls to be demolished or erected.

§ 3. Upon receiving such application, the building committee of the common council shall inspect the location named, and if satisfied that the proposed building will be of suitable strength and constructed with due provision to ward against the dangers of fire, or if satisfied that the proposed alteration or enlargement will not dangerously weaken the building or unduly expose it to the risk of fire, they shall approve the application; Provided, that the provisions of this ordinance shall not be so construed as to prevent the proper construction of buildings out of stone, brick, metal or wooden materials under the provisions of this ordinance.

§ 4. If the building committee shall withhold its approval of an application, after one regular meeting of the council from the time they received the same, the party making the application, may if he declined altering his plans to conform to such directions as the committee may consider necessary for the public welfare, bring the matter before the common council, and the council shall then determine whether the party shall have the permit or not; and if decided in the affirmative, the clerk shall immediately note the action of the council upon the application. Upon a permit being authorized by the council or upon the approval of an application by the building committee, the latter shall transmit the application to the office of the city clerk without delay, whereupon a permit shall be issued to the applicant by the clerk.

§ 5. Upon receiving the permit, the party intending to build shall, if the street be not graded in front of the proposed building, obtain

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Art. 2. The ordinance of Aug. 29, 1894, recorded in Ordinance Book 1, page 73, as well as that without date recorded in the same book at page 189, and another approved March 11, 1898, found on page 190, are intended to be repealed by this ordinance. An ordinance approved Nov. 12, 1901, in Ordinance Book 2, page 31, was declared unconstitutional in Boyd v. City of Frankfort, 25 Ky. Law Rep., 1311.

An ordinance fixing fire limits, valid. O'Bryan v. Highland Apartment Co., 108 S. W., 257, 128 Ky., 282.

For full discussion of building regulations see McGee, Judge v. Kennedy, 131 Ky., 27.

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the grade from the city engineer's office. The portion of any public street which may be occupied by the material necessary for a building in course of construction shall not exceed in extent the dimensions of the front of the premises being built upon and twenty-five feet in addition thereto, and not exceeding one-third of the street in breadth; and such occupation of a street shall not be prolonged an unreasonable or unnecessary period of time; Provided, that a sufficient passage or cart-away shall at all times be left unencumbered between said building materials and the opposite curb stone for the passage of vehicles; and provided further, that no building materials shall be placed within four feet of any fire cistern, fire plug, pump, or foot-way crossing, or within twelve inches of any curb stone.

§ 6. It is hereby made the duty of the chief of police to prosecute any violation or avoidance of the requirements and true intents of section 5, after he shall have given at least twenty-four hours notice to any masterbuilder employed on the building, or to the owner thereof.

§ 7. The city engineer shall examine the premises during the erection or alteration of the building as often as he may deem it necessary to see that the buildings are erected or altered according to the application upon which the permit was issued, and to report to the council any deviation from the terms of said application.

§ 8. Any person who violates the provisions of the foregoing sections of this ordinance, or fails to comply with any of the requirements thereof, or who shall proceed to erect, or alter, or enlarge a building in this city, or permits same to be done on any lot of ground owned or leased by him without first having obtained a permit, as provided in this ordinance, and any person who shall take charge of or control the work of such erection, alteration, or enlargement without obtaining a permit as herein required, or who shall occupy more of a public street for building materials than is herein permitted, shall be fined not less than five dollars nor more than twenty-five dollars, in the first place, and five dollars additional for each day that said offense is thereafter continued.

§ 9. That portion of the city of Frankfort included in the following boundary: Beginning on the Kentucky river at the foot of South Washington street, thence north on Washington to Wapping street, thence east on Wapping to Catfish alley and running through Catfish alley to Broadway, thence east on Broadway to High street, thence south on High street to the river, thence down the river to the beginning, shall be the fire district, and within said district it shall be unlawful to construct or renew any wooden building or any part thereof, or to remove any wooden building to any point within said district.

§ 10. Any person who shall violate or attempt to violate any of the provisions of section 9 shall for each offense be fined not less than five nor more than twenty-five dollars ($25) in the first place, and five dollars ($5) additional for each day that the offense is thereafter continued; Provided, that for good cause shown the council may permit any build-

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ing now in said district to be repaired or rebuilt; but no new building shall be erected in said district except as in this ordinance provided. (Passed common council June 10, 1912, and April 28, 1913. Approved April 29, 1913.)

ARTICLE 3.

Dwelling Houses.

§ 1. That no building, house or room, intended or designed for dwelling purposes, which is or may hereafter become so unsanitary or out of repair as to render it unfit for habitation, or which is or may become unsafe for occupancy, or that may be considered dangerous or detrimental to the public, or injurious to the health or morals of the community, shall be rented, leased, let, hired out or permitted to be used, either with or without compensation.

§ 2. That no building, house or room, intended or designed for dwelling purposes, which is or may become so unsanitary or out of repair as to render it unfit for habitation, or which is or may become unsafe for occupancy, or may be considered dangerous or detrimental to the public, or injurious to the health or morals of the community, shall be maintained or occupied.

§ 3. Whenever any building, house or room, intended or designed for dwelling purposes, shall be unfit for habitation for any of the causes named in sections one and two of this ordinance, the occupant or occupants thereof shall vacate within ten days, and the owner or owners shall abate and remove the same within twenty days after receiving from the mayor notice or notices so to do, which notice or notices shall set forth the grounds therefor.

§ 4. Upon complaint in writing made to him by the health officer of the city, or by petition filed with him, signed by three or more persons, owners of real estate residing in the city, he shall cause to be served, by the chief of police, in writing upon the occupants and owners of any such premises, the notice or notices provided for by section three, to be served by delivering or offering to deliver a copy to the person to whom it is directed, or if such person cannot be found, by delivering a copy to his agent, or by affixing such copy to the front door of the premises, sought to be abated.

§ 5. Upon the failure of the owner or owners to abate and remove any such building, house or room within the time required by section three, he or they shall be subject to a fine of not less than five nor more than twenty dollars, and ten dollars for each succeeding twenty-four hours it remains unabated, and it shall be the duty of the mayor, at the expiration of said twenty days, to cause a warrant or summons against such owner or owners to be issued by the police judge, charging a violation of this ordinance, and if upon a trial of the charge the party against whom the said warrant or summons was issued, shall be con-

(Art. 3).

This ordinance was declared valid in Polsgrove, Mayor, &c. vs. Moss, reported in 154 Ky., Page 408.

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victed, the judgment of conviction shall order the abatement and removal of the building, house or room designed in said warrant. Provided, that if the owner be a non-resident of the State or county of Franklin, he shall be proceeded against by warning order, as prescribed by the Civil Code of the State in proceedings against non-residents, and the fine fixed by this section shall not be imposed, and the judgment of the court shall only require the abatement and removal of the structure so designed.

§ 6. Whenever there shall be a conviction under the preceding section, it shall be the duty of the mayor, in the name of the city, to contract with some suitable person or persons to abate and remove the structure designated in the warrant or summons upon which said conviction was had, at the cost of the owner or owners thereof, which cost, if not paid by the owner or owners, may be paid by the city, and the amount so expended shall be recovered by the city by suit in any court of competent jurisdiction.

§ 7. Any tenant or occupant, not the owner of the premises, who shall violate section three shall be fined not less than two nor more than ten dollars, and each twenty-four hours after ten days notice, as required therein, shall constitute a separate offense. (April 29, 1913.)

ARTICLE 4.

Gunpowder and Dynamite Regulations.

§ 1. It shall be unlawful to keep on hand in a store or building in the city of Frankfort more than twenty-five (25) pounds of gunpowder, said gunpowder to be kept in closed metal canisters within the store or wareroom away from all artificial light or heat.

§ 2. It shall be unlawful to store or keep any dynamite, nitroglycerine, giant power or other explosives other than gunpowder in any store room, ware room, building, or on any premises in said city, provided that not exceeding fifty (50) pounds of dynamite may be kept at the city workhouse for the exclusive use of the city.

§ 3. Any person, firm or corporation violating any of the provisions of this ordinance shall be fined not less than five ($5) dollars nor more than twenty-five ($25) dollars for each offense, and each and every day that any of the terms, conditions or provisions of this ordinance are not complied with shall be considered a separate offense. (April 10, 1912.)

ARTICLE 5.

Spitting on Sidewalk, Etc.—Provisions Concerning.

§ 1. That it shall be unlawful for any person within the city of Frankfort to spit, expectorate, deposit or place any spitum, spittle, saliva, phlegm, mucus or tobacco juice upon the sidewalk of any street, avenue, public square or place in the city of or upon the floor of any hall or stairway or any house which is used in common by ten-

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ants thereof, or upon the floor of any hall, office or stairway of any hotel, lodging house which is used in common by the guests thereof, or upon the floor or stairway of any theatre, store, factory, church, depot, railroad or street car station, or upon the floor or stairway, or any other of any public building, or upon the floor, platform or any stairway, of any railroad car, vehicle or other public conveyance, or upon the floor or stairs platform inside furnishing or any part of a street car which is used or run upon any of the streets or highways in the city of Frankfort.

The corporation or person owning or having the management or control of any such building, store, factory, railroad car or other public conveyance, depot or station, station platform or stairs of any common carrier, are hereby required to keep permanently posted in each of said places such a number of notices forbidding spitting and expectorating as may be sufficient to call attention to the provisions of this section.

§ 2. Any person violating the terms and provisions of this ordinance shall, upon conviction thereof be punished by a fine of not less than one dollar nor more than fifty dollars. (May 11, 1908.)

ARTICLE 6.

Water Closets Required in Places of Amusement.

§ 1. That hereafter every owner or proprietor of public places of amusement at which admission is paid or a profit derived therefrom shall provide for the use of his or their customers suitable water closets and other convenience for their use and in case of their failure to do so shall be fined not less than five nor more than twenty dollars for each offense and each days failure to so provide such convenience shall constitute a separate offense.

§ 2. This ordinance shall not apply unless the committees on grievance in said city shall have determined the nature of such convenience and so notified the owner or proprietors of such places of amusement. (April 13, 1908.)

CAPTER 9—REVENUE AND TAXATION.

ARTICLE 1.

Taxable Property—How Assessed.

§ 1. That all real and personal estate shall be assessed either in the name of the holder of legal title, the equitable title or claimant, or bailee, in possession of same of the 10th day of January, and shall be valued as of that date without regard to any conflicting title, and the

Art. 1. Irregularity in assessment does not invalidate the assessment, Board of Councilmen v. Farmers Bank, 22 R., 1738.

Council may assess omitted property by ordinance. City of Owensboro v. Callahan, 13 R., 418.

The burden of proving the illegality of a tax is upon the person questioning it. Board of Councilmen v. Morgan, 33 R., 297. 135 Ky., 178, and the burden is also on him to show that constitutional limit has been exceeded. Id.

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assessor shall begin his work on that day or as soon thereafter as practicable, and shall complete and return same to the common council by the 10th day of the following March. (Feb. 9, 1894.)

§ 2. That the assessor or his deputies shall administer to every person listing property the following oath:

"You do swear that the list of taxable property about to be given in by you will contain a full and complete list, and the best description you can give of all and every species of property belonging to you or in your possession subject to taxation on the 10th day of January last, and that according to your best judgment you will value your property at its fair cash value estimated at the price it would bring at a fair voluntary sale, and that you will true and perfect answers make to all such questions as may be asked you concerning your taxable property, or that of others in your possession or about to be listed by you for them."

§ 3. The assessor or his deputies shall apply personally at the residence or place of business of each person subject to taxation for a list of his taxable property; and before assessing any land or improvements shall by himself or his deputies view the same and before assessing goods, wares and merchandise shall go upon the premises where the same, or the greater part thereof may be found and the assessor or his deputies from his own knowledge and from the statements of the person listing the property for taxation and such other evidence as he may be able to obtain upon the oath of witnesses sworn by him shall fix the value upon all the estate listed with him for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, and shall enter the same together with the Christian and surname of the person upon the blank schedule provided for herein.

§ 4. That the assessor shall on or before the 10th day of March of each year make out and return to the city clerk the assessment book with the names in alphabetical order of all persons who are the owners or holders of real or personal estate subject to taxation for municipal purposes; and opposite the name of such owner or holder each lot or parcel of ground shall be given in a separate item together with the number of each on the map of the city, and the street and square where situated and the number of feet front and the depth, and the amount of rontage on each street where it binds no more than one street, and the value of the ground and the improvements thereon, shall as to each lot be stated separately; and said assessment book shall also show the discription and value in separate and appropriate columns of each and every species of property owned by each person subject to taxation for municipal purposes.

§ 5. That the city clerk shall before the 10th day of January in each year or as soon thereafter as practicable, have prepared at the expense of the city for the use of the assessor and his deputies a suf-

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ficient number of assessments of all property, real and personal, with interrogatory to be propounded to each person with affidavits thereto attached, to be signed and sworn to by the party whose property is assessed.

The schedules shall contain two columns; in one the person whose property is assessed shall fix the values; in the other the assessor shall fix what in his judgment is the proper valuation of the property. The party, or the assessor where the party cannot write shall write the word "none" after each item whenever he has no property to assess as named in such item; but no item shall be passed without being answered.

And the following shall be the form of interrogatory and schedule required:

Interrogatory propounded to and answered by ..... of the ..... ward of the city of Frankfort, State of Kentucky, on the ..... day of ....., and schedule of all property held or owned by him on the 10th day of January, 19....., and valuation thereof as fixed by him, and as fixed by the assessor.

Are you, or were you on the 10th day of January of the present year, executor of the will or administrator or curator of the estate of any deceased person, or guardian, committee, assignee, commissioner, receiver or trustee of any person or have you in your possession or under your control, any property, money or other thing of value belonging to any other person, or corporation? Answer, ... If answer is yes, the person is required to list such property separate from his own, and in the name of the real owner, and shown by whom listed.

Schedule of all property held or owned by ....., of the ..... ward of the city of Frankfort on the 10th day of January, 19....., and valuations thereof as fixed by him and as fixed by the assessor.

Town lots or parcel of land.
Number of each lot on map of the city.
On what street and between what street situated.
Value as fixed by assessor.
Value as fixed by Persons assessed.
Value of each lot or parcel of land.
Value of all improvements of each lot or parcel of land.
Amount of bonds.
Amount of notes secured by mortgage.
Amount of other notes.
Amount of accounts.
Amount of cash on hand.
Amount of cash deposited in bank.

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Amount of each deposited with other corporations.
Amount of each on deposit with other individuals.
Amount of all other cash or money at interest.
Amount of stock in foreign corporations.
Amount of stock in joint stock companies or associations.
Number of value of horses and mules.
Number of value of bulls, cows and calves and steers.
Value of agricultural implements.
Value of agricultural products.
Value of wagons, carriages, bicycles and vehicles of all kinds.
Value of safes.
Value of household and kitchen furniture.
Value of manufacturing implements and machinery of all kinds.
Value of piano forte and other musical instruments.
Value of raw material to be used in manufacturing.
Value of manufactured articles.
Number of value of paintings.
Library, number of volumes and value thereof.
Number and value of diamonds.
Value of watches, clocks, jewelry, gold, silver and plated ware.
Value of steam engines including boilers.
Value of steam boats and other water crafts.
Value of brick, stone and other building material.
Value of wines, whiskeys, brandies and mixtures thereof in distilleries, bounded warehouses.
Number of stores and value of stock of goods and other property therein including fixtures.
Value of property held for another for sale on commission.
Value of property not mentioned above.
Total value of property listed above $..... $.....
Less household goods and other personal property of persons with a family to be deducted from valuation of personal property listed above not to exceed $250.
Total balance of taxation $..... $.....
Number of males over 21 years of age.

The following shall be the form of oath which shall be printed on each schedule, which the party whose list is taken shall prescribe and swear to before the assessor or his deputy as soon as such schedule shall be completed and all persons failing or refusing to take such oath shall be deemed guilty of refusing to give in their property for assessment and shall be fined as provided for such offenses.

State of Kentucky }
City of Frankfort. } sct.

"I do solemnly swear (or affirm) that the foregoing schedule contains a true, full and complete list of all taxable property belonging to me on the 10th day of January, 19....., and to the best of my knowledge,

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belief and judgment the values fixed by me to the various articles as above is a fair cash value thereof, estimated at the price they would bring at a fair voluntary sale, and to the best of my knowledge, belief and judgment none of said articles would bring any greater sum at any such sale than as stated above.

I further swear that to the best of my knowledge, belief and judgment I cannot realize any greater sum in the notes and accounts owned and held by me against others than as stated by me in said schedule, and the answer made by me to the above interrogatory are true.

"Subsribed and sworn to before me by ..... this the ..... day of .....; after said oath was read to him by me.

.....Assessor."

It shall be the duty of every assessor's deputy to read said oath in full to each taxpayer before he shall be allowed to sign or swear to it. And the assessor or his deputy who shall violate either of these provisions shall be deemed guilty of a misdemeanor and on conviction be fined fifty dollars ($50) for each offense, and any person who shall make a false statement as to any matter with reference to the listing of his property for taxation or who shall render an imperfect or fraudulent list or who shall fail to give a list of his property when called on by the assessor shall for each offense be fined fifty ($50) dollars recoverable by warrant before the police judge of the city of Frankfort and each refusal to render such list shall be deemed a separate offense.

§ 6. If any taxpayer cannot be found at his residence or place of business the assessor shall leave a written notice with some person of the household or at the place of business over sixteen years of age, or put on the front door of the residence or place of business notice of the time and place such person shall meet the assessor in the city, and give in his list a taxable property, and if he fails to attend and give in such list then the assessor shall report such persons to the supervisors, who shall asses and value his property.

§ 7. The assessor shall report any one in default under the foregoing sections without having performed the duties required of him in said section, he shall be fined ten ($10) dollars for each offense.

§ 8. That property which has been sold for taxes shall afterwards and until it is redeemed be assessed against the holder of the tax title.

But when the city is the holder of said title the tax bill therefor shall not be delivered to the collector. (Feb. 9, 1894.)

ARTICLE 2.

Taxes—How Apportioned.

§ 1. After the assessor's book has been examined and corrected by the board of supervisors, and accepted by the common council, the clerk shall each year, make out therefrom a tax book or books in his office as permanent record books, showing in alphabetical order the names of each taxpayer, with each item of real estate and the value

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thereof assessed by each, and under certain general heads the personal property and value thereof assessed by each giving total assessment, total tax and to what funds apportioned, the date paid collector, date paid treasurer, and the number of receipt by which paid; and which said tax book shall be in form substantially as follows, to-wit:

Names.	Tithes.	Real Estate. Improved lots.	Unimproved lots.	Description of lots.	Size of lots.	Value.	Value of watches and clocks.	Value of pianos and other musical instruments.	Horses and mules. No. .....Value	Vehicles. No. ..... and value	Value of gold, silver and plated ware.	Cash, notes and accounts.	Value of all personalty not exempt.	Value and description of all other personal property.	Total assessment.	Tax. Revenue.	Sinking Fund.	School Fund.	Total.	Paid collector.	Paid Treasurer.	No. of receipt.

§ 2. The clerk shall also make out and deliver to the tax collector not later than the first day of June in each year a tax book or books with blank tax receipts and stubs with number to correspond in alphabetical order the name of each taxpayer, the number and value, of all town lots, and under certain general heads the personal property and value thereof, total value of all property assessed by each taxpayer and the total amount of tax due each taxpayer.

Said book or books to be in form as follows, to-wit:

CITY TAX FOR 189.....

Towns lots, number	$	Tax	
Horses and mules	$	Rev.	
Cash on deposits		Sinking fund	
Vehicles		School fund	
Pianos and organs		Poll	
Clocks, watches and jewelry.....		% penalty	
Bonds, notes and accounts		Total $.....	

§ 3. The city clerk shall each year take the receipt of and charge the tax collector with the full or gross amount of taxes due the city, and shall present said receipt to the common council and record the same in the minutes. He shall furnish the tax collector the necessary blanks on which to make his semi-monthly statements of taxes collected and it shall be the duty of the clerk to examine said statements

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and carefully compare the stubs returned by the collector with the amount shown by the tax book in his office to be due by each person whom the tax collector reports as paid, and if found correct to so certify; and the clerk shall issue permit for the city treasurer to receive, and the city treasurer shall receive and receipt for the full amount of taxes so reported by the tax collector, and upon the tax collector producing and filing with the city clerk the city treasurer's receipt for the full amount so reported; the clerk shall at once enter into the tax book in his office opposite the name of each person so reported as paid, in the appropriate column, the date the tax of each of said persons was paid tax collector, and the date paid city treasurer. (April 26, 1894.)

ARTICLE 3.

Taxes—How Collected.

§ 1. It shall be the duty of the tax collector, at his own cost, to give notice by publication in at least two daily newspapers published in the city of Frankfort, and by printed notices put up at all public places in the city, of the time at which the taxes are due and the place where the same will be received; also such rebate, if any, as may be allowed for advance payments, and the penalties to be added by law to overdue taxes remaining unpaid.

§ 2. The tax collector shall not alter, or enter any credit upon any tax bill, until such proposed alteration or credit shall have been approved and ordered by the common council; and unless otherwise ordered by the common council the whole amount of taxes and penalty due from each taxpayer must in every instance be paid in full; and the tax collector shall not receive from any taxpayer a partial payment of the amount of taxes and penalty due from him. But, should the collector do so, such failure of duty on his part shall not invalidate nor prejudice the city's claim to the remainder due.

§ 3. That the semi-monthly statements from the tax collector as required by Sec. 124 of the Charter, shall be made on the 15th day, and last day of each month; and if either of those days fall on Sunday or a legal holiday, such statement shall be made the day previous thereto. Said statement verified by the affidavit of the tax collector, shall show the total amount of taxes and penalties collected since last statement, when and of whom collected, and shall show in separate and appropriate columns, the portion thereof levied and appropriated for general revenue purposes, the portion levied for sinking fund purposes, and the portion levied for school purposes, and shall be upon blanks in form as follows, to-wit:

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OFFICE OF TAX COLLECTOR,
Frankfort, Ky.

To the City Clerk of the City of Frankfort:

I beg leave to submit the following statement of taxes collected by me since my last report.

Receipt No.	Names of Tax Payers	General Revenue	Sinking Fund	School Tax	Penalty	Total

The total amount of taxes and penalties so reported shall be deposited by the tax collector, to his credit, in some one or more of the Frankfort banks. And the tax collector shall present to the city clerk, each of his semi-monthly statements accompanied by those separate checks upon said deposit, drawn by the collector and payable to the city treasurer, one for the amount of general revenue, and penalties, one for the amount of the sinking fund tax, and one for the amount of school tax, and the city clerk shall examine said semi-monthly statements and carefully compare the stubs returned therewith, with the amounts shown by the tax book in his office to be due by each person whom the tax collector reports as paid, and if found correct, shall so certify, and issue his permit to the tax collector to pay same to the city treasurer, and the tax collector shall immediately deliver the three checks, together with the statement or collections so reported by him, to the city treasurer, taking his receipt for the full amount of taxes so reported, which receipt shall be by the tax collector filed with the city clerk.

Said check for the amount of the general revenue and penalties collected, shall at once be cashed by the treasurer and the amount thereof turned into the city treasury. Neither of the other checks shall be cashed by the treasurer, but shall be endorsed by him, and that for sinking fund tax shall upon warrant of the city clerk in favor of the treasurer of the board of Sinking Fund commissioners be delivered to that officer, to be cashed by the board and used for sinking fund purposes, and that for school tax shall upon warrant of the city clerk be delivered to the treasurer of the board of Education to be cashed by that board and used for school purposes.

§ 4. The collector's tax book, together with his written report, required by Sec. 143 of the charter to be returned to the office of the city clerk at the end of the collector's official term, shall be examined by the city clerk and the finance committee, and approved or disapproved by them. And afterwards, the same with said approval or disapproval in writing, shall be submitted to the common council for final acceptance or rejection by the body. If same be accepted as correct by the

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council, a quietus shall be granted the collector by the council which quietus shall be entered upon the journal of the council proceedings and recorded in the city clerk's office.

§ 6. The tax bills, required by Sec. 126 of the Charter, shall be made out upon blanks to be furnished by the city clerk, in form as follows, to-wit:

TAX BILL.

Frankfort, Ky., January 1st, 189.....

To City of Frankfort, Dr.

To taxes on real estate for the year $.....

The description of said real estate is as follows:

.....

Tax Collector.

The foregoing is a true and correct bill.

Given under my hand on this the ..... day of January .....

.....

City Clerk.

(May 8, 1894.)

ARTICLE 4.

Taxes—How Distributed.

§ 1. The treasurer shall not receive into nor pay out any money from the treasury, except upon the certificate or warrant of the city clerk. He shall receive and safely care for all money due or payable to the city from collectors of revenue, public officers, and others when tendered, accompanied by the certificate or permit of the clerk stating the amount to be received and on what account and from whom to be received. He shall immediately make out a receipt for such amount, stating for what and of whom received, and deliver it to the clerk who shall in like manner give a receipt to the officers or person paying the same. And immediately upon the receipt of each semi-monthly statement of the tax collector, accompanied by the three separate checks for the amount of the general revenue and penalties, sinking fund and school fund tax, respectively, it shall be the duty of the treasurer to cash the check for the amount of general revenue and penalties and turn the amount thereof into the city treasury; neither of the other checks shall be cashed by the treasurer, but shall be endorsed by him, and the check for sinking fund tax shall, upon warrant of the city clerk in favor of the treasurer of the board of sinking fund commissioners, be delivered to that officer, to be cashed by the board and used for sinking fund purposes; and the check for school tax shall, upon warrant of the city clerk, be delivered to the treasurer of the board of education to be cashed by that board and used for school purposes. (Sept. 26, 1894.)

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ARTICLE 5.

LICENSE TAX LEVY AND COLLECTION.

License When Due.

§ 1. That all license hereafter issued within the city of Frankfort, except as otherwise specially provided herein, shall become due and payable on the 30th day of April and continue in force for a period of one year, unless forfeited as provided by this ordinance; and all license fees collected from liquor dealers, whether wholesale or retail, shall be paid into the sinking fund to be used exclusively for the purpose of paying the interest and creating a fund for the extinguishment of the bonded debt of the city. All other license fees shall be paid to the city treasurer and become a part of the general fund of the city.

License—How Secured.

§ 2. Unless otherwise specified herein, all licenses shall be granted by the common council, and shall be issued in the following manner, to-wit:

§ 3. The city clerk shall give each applicant for license a written permit to pay to the treasurer of the board of sinking fund commissioners, or to the city treasurer, as the case may be, the price fixed by ordinance for such license, and the treasurer of the board of sinking fund commissioners or the city treasurer shall give to each applicant a receipt for the amount paid to him, and shall specify in the receipt the nature of the license for which the payment is made.

The applicant shall present the receipt to the city clerk, who shall carefully file and preserve the same in his office and issue to the applicant the license desired, which shall be in substance as follows:

Commonwealth of Kentucky }
City of Frankfort. } Sct.

.....having produced to me the receipt of the treasurer of the board of sinking fund commissioners, or the city treasurer, for the sum of $....., being price fixed by ordinance for license in the city of Frankfort. The said ....., is hereby authorized and licensed to ..... in the city of Frankfort from the date hereof until April 30th, ...

Witness my hand as clerk of the city of Frankfort this ..... day of .....

.....

City Clerk.

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§ 1. **License Tax.**—Discrimination not allowed in levying against goods manufactured in city and goods manufactured outside of city. Jung Brewing Co. v. City of Frankfort, 18 R., 855, 100 Ky., 409.

Distillers not discharged from other taxes by payment of license. City of Frankfort v. Gaines, 88 Ky., 59, 10 R., 902.

Employments—Trades — Occupations—Professions—May be required to pay license tax. Burch v. City of Owensboro, 18 R., 284, Hall v. Com., 19 R., 578, 101 Ky., 382. Baker v. City, 21 R., 809; Fidelity Co. v. City, 20 R., 1785, 106 Ky., 207; City of Covington v. Herzog, 116 Ky., 725, 25 R., 938; West v. City, 23 R., 1670; Brown-Forman Co. v. Com., 30 R.. 793.

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No license shall be valid until the receipt of the treasurer of the board of sinking fund commissioners, or city treasurer, has been lodged with the city clerk.

§ 4. The city clerk shall register in a book in his office an alphabetical list of all license issued by him, making a separate list of each kind of license, showing the names of the persons or firms to whom issued, the date when issued, the business, profession, avocation or calling licensed, the class and rate charged therefor, and shall, whenever required, report said list to the common council or to a committee thereof.

§ 5. All license may by the consent of the common council entered of record, be transferred from one place to another, to which the business authorized may actually be removed; but no saloon or liquor dealer's license shall be transferred from one place to another, until the person or firm desiring such transfer shall make written application to the common council therefor and give the notice required by subsection five of section eleven (11). License may be transferred from one person to another, by order of the license committee, upon payment by the applicant, of five per cent of the original amount paid for same.

Livery Stable Keepers.

§ 6. That persons who keep horses or vehicles for hire, or who keep, feed or board horses for others, shall be regarded as livery stable keepers.

Pawnbrokers.

§ 7. Every person whose business or occupation it is to make or receive, by way of pledge, pawn or exchange, any goods, wares or merchandise, or any kind of personal property whatever as security for the payment of money lent thereon, other than banks, shall be deemed a pawnbroker.

Temporary Merchants.

§ 8. That all persons, firms or corporations who rent a room, storeroom or business house in the city of Frankfort, Ky., for a period of less than eight months for the purpose of selling or offering for sale goods, wares or merchandise of any kind or description, either privately or at a public auction, who shall consign and deliver such goods, wares or merchandise to the auction or other rooms of an auctioneer, or of any other person whatsoever, either at private or public auction or sale, are hereby declared to be temporary merchants; and this action shall include in its provisions all such persons, firms or corporations who may sell or offer for sale goods, wares or merchandise under the name of any regularly established merchant, firm or corporation.

Peddlers.

§ 9. Persons who sell, or offer to sell, at retail goods, wares, or other commodities, traveling from place to place, in the streets or through different parts of the city, shall be deemed peddlers.

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Hucksters.

§ 10. All itinerant vendors of butter, eggs, fowls and small game not the product of their own farms, or game slaughtered or trapped in this or adjoining counties, or fish caught or trapped in the river or other streams adjacent to the city of Frankfort, and purchased by the vendors of same from hunters or fishermen, or fruits purchased from the farmers or gatherers of same, shall be deemed hucksters within the meaning of this ordinance.

Retail Liquor License.

§ 11. No license to sell liquor in any form shall be granted to a person of bad character or who has been convicted of keeping a disorderly house, or of suffering gaming in his house or in or upon any premises under his control, giving or selling same to a minor or keeping open or selling on Sunday.

Subsec. 1. All applications for license to retail spirituous, vinous or malt liquors in the city of Frankfort shall be filed with the city clerk ten days before the issual of any such license.

Subsec. 2. The application shall state the location where such applicant proposes to sell such liquor, and the chairman of the license committee shall, by three insertions in a daily newspaper published in the city of Frankfort give at least ten days notice of the same, stating therein the time and place where any person desires to object to granting any such license, may file a remonstrance.

Subsec. 3. No license shall be granted to sell intoxicating liquors in Frankfort, except that part bounded by Broadway on the north, High street on the east, the Kentucky river on the south and Washington street on the west, provided, that such liquors may be sold in any room fronting on either side of said streets, but no such liquors shall be sold on the south side of the Kentucky river.

Subsec. 4. No license shall be issued to any person to retail spirituous, vinous or malt liquors until the applicant for such license shall have executed bond to the board of councilmen of the city of Frankfort with security, to be approved by the mayor in the sum of five hundred (500) dollars, conditioned that such licensee will not violate any law of the State of Kentucky, or any ordinance of the city of Frankfort. Said bond shall be in substance as follows:

WHEREAS, ... has obtained a license to retail spirituous, vinous or malt liquor in the city of Frankfort. Now, we ..... principal, and ..... as surety, do hereby covenant and agree, and do recognize ourselves as firmly bound unto the board of councilmen of the city of Frankfort, that the said ..... will not violate any law of the State of Kentucky, nor any ordinance of the city of Frankfort while said license is in force.

Given under our hand, this the ..... day of .....

.....

.....

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Subsec. 5. No new license to sell spirituous, vinous or malt liquors shall be granted until ten days notice shall be given by posting a written or printed poster in at least four public places in the neighborhood where the liquor is to be sold, and if a majority of the owners of property within two hundred feet of the place where such liquor is to be sold shall object thereto in writing, such license shall not be granted.

§ 12. Every license issued pursuant to this ordinance shall be with the distinct agreement, understanding and condition that the same shall be revoked for the following causes:

1st. For any breach of the conditions of the bond required by section 11 .

2nd. If any licensee shall be convicted in any court of competent jurisdiction of selling liquor on Sunday or suffering gaming on any premises adjacent to or in any way connected with his saloon and under his control, his license shall automatically and simultaneously with such conviction become null and void, and if such person shall thereafter sell or offer for sale any spirituous, vinous or malt liquors in said city he shall be deemed guilty of selling liquor without license and punished accordingly.

§ 13. It shall be unlawful for any person having a license to sell liquor under this ordinance to keep said place where such liquor is sold open for the sale of liquor, or to sell spirituous, vinous or malt liquor therein after the hour of twelve o'clock, midnight, or before five o'clock a. m., on any day.

§ 14. No liquor license shall be granted to any owner, proprietor or person operating or conducting a restaurant or eating house unless the compartment in which liquors are sold be so arranged as that the passage way from said restaurant to and from the saloon may be closed on Sunday and the blinds to the saloon compartment may be raised and opened in such manner as to enable persons passing in front to see inside the said saloon, nor unless said restaurant can be entered without passing through the saloon, nor shall license to sell spirituous, vinous or malt liquors be granted to any person to do business in any room having a side or rear entrance from an adjoining building. No person or persons shall be granted a license to sell liquor of any kind in connection with any store room or place where groceries or other merchandise are kept for sale, where said grocery or store room is separated from the place where liquors are sold by any screen or partition, unless the same can be so arranged on Sundays as to enable persons passing along the front streets to see inside the place where liquor is sold when the curtains or blinds of the front windows are raised or opened.

Wholesale Liquor Dealers.

§ 15. That each and every person, firm or corporation having a place of business in the city, and engaged in selling spirituous, vinous

§ 13. As to validity of ordinance fixing hours for closing business houses, see Hyman v. Boldrick, Judge, 153 Ky., 77.

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or malt liquor, either in barrels or in casks, or in bottles by the case shall be deemed a wholesale liquor dealer.

§ 16. Before engaging in any occupation, calling or trade, or engaging in any business or selling any article of merchandise, the person, persons, company or corporation desiring so to do shall procure license and pay the tax thereon as follows:

Merchants, for each distinct line of merchandise, not exceeding five	$ 10.00
Wholesale dealers in spirituous and vinous liquors	250.00
Wholesale dealers in malt liquors	250.00
Retail dealers in spirituous and vinous liquors	400.00
Retail dealers in malt liquor	400.00
Retail dealer in spirituous, vinous and malt liquors	400.00
Livery stable keepers	25.00
Vehicles kept for hire, by other than livery stable keepers, if drawn by one horse	3.00
Two horses or more	5.00
Billard, pigeon hole or pool tables, each	25.00
Nine or ten pin or bowling alley, each	20.00
Retail dealers in ice	50.00
Shooting galleries, each	50.00
Circus menageries exhibited under canvas, for each twenty-four hours, or for each parade through the streets of the city	100.00
Side shows where separate entrance fees are charged, each	20.00
Exhibitions exclusively of trained animals, or for each parade through the streets of the city	25.00
Wild west or floating shows, or for each parade through the streets of the city	25.00
Restaurant or eating house or lunch stand where food or refreshments other than intoxicating liquors are sold	10.00
Pawnbrokers	50.00
Incorporated banks, trust companies	25.00
Persons lending or advancing money on salary or wages, except employers	100.00
Fire Insurance Companies	35.00
Life Insurance Companies	35.00
Life and Accident Insurance Companies	35.00
Insurance Agents	10.00
Special or nonresident agents	10.00
Investment Companies	25.00
Casualty, Surety and Guaranty Companies	10.00
Lawyers, Physicians and Dentists practicing in the city	10.00
Real estate, claim and pension agents	25.00
Laundries	27.50
Dealers in fresh meat	20.00
Express wagons	10.00
Buggies, etc., sold on streets	10.00

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Automobiles	2.50
Garages	10.00
Hucksters	14.00
Five and ten cent stores	25.00
Stock yards	50.00
Warehouses where sales of agricultural products are held by auction or otherwise	25.00
Sprinkling carts	25.00
Purchasing or mail order agents	10.00
Trading stamp dealers	100.00
Coal dealers	50.00
Temporary merchants	175.00
Skating rink	50.00
Dealers in old iron, hides or junk and second hand goods, not merchants	15.00
Moving picture shows	100.00
Wholesale or retail dealers in illuminating or lubricating ails oils and the products of oil refineries	200.00
Retail peddlers of oils, in one horse wagons	10.00
Peddlers	75.00
"Malt Meads," "Near Beer" or other "Soft Drinks" containing any percentage of alcohol whatever, to be sold only in restricted territory	400.00

§ 17. That the license committee be and it is hereby authorized to fix license tax on any exhibition, trade, calling, occupation or business not mentioned in this ordinance, whenever it may become necessary or is desired and to classify the lines of merchandise carried by each applicant for license, in such manner as to prevent any merchant from being taxed upon more than five (5) lines, except as otherwise provided in this ordinance.

§ 18. License granted under this ordinance shall not confer any authority on any person to engage in the business, or selling the article named in the license on Sunday.

§ 19. It shall be unlawful for any person to whom a license is granted under this ordinance, to suffer any gaming, scandals or disorderly conduct in their houses or on their premises, or to furnish any liquor to any person who is drunk, or who is a known inebriate, or who is under twenty-one years of age, or to sell any liquor on Sunday, or upon any other day the law may prohibit the sale thereof.

§ 20. Any person, persons, firm or corporation who shall engage in any business, or sell, or offer to sell, any article for which a license is required, before procuring the license and paying the taxes thereon, or who shall violate any of the provisions of this ordinance, in any or from whatever, shall, upon conviction therefor, be fined any sum not less than ten ($10) dollars or more than one hundred ($100) dollars for each offense.

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§ 21. All ordinances and parts of ordinances in conflict herewith, and all other license ordinances, except that requiring a license on dogs, are hereby repealed. (May 28, 1912.)

ARTICLE 6.

§ 1. That all licenses that may be owing and unpaid to the ctiy thirty days after they become due by any person, corporation, partnership or firm, whether public, private or professional, doing business in the city of Frankfort, in which a license tax is imposed, shall be subject to a ten per cent penalty.

§ 2. It shall be the duty of the city clerk who for the purpose of this ordinance is hereby designated as license inspector to proceed to collect such delinquent licenses thirty days after said penalty as set out in section one is imposed and at the expiration of thirty days, or sixty days from the time the licenses become due, he shall proceed by taking warrants in the police court against all persons, corporations, partners, or firms, whether public, private, or professional, who owe and have not paid license tax required to be paid by them, or the business or profession in which they are engaged.

§ 3. It shall be the duty of the city clerk to report to the council at their first regular meeting night in each month the names of all persons, corporations, partnerships, or firms, whether public, private, or professional, who are delinquent in paying the licenses imposed upon them.

§ 4. The city clerk shall receive as compensation for his services in causing the delinquent licenses to be paid the ten per cent penalty, which is provided in section one of this ordinance.

§ 5. All license certificates issued by the city should be exposed in a conspicuous place in the house for which the license is granted and shall be subject at all times to inspection by the license inspector. (March 11-28, 1910.)

ARTICLE 7.

Sinking Fund Created.

§ 1. That to provide for the prompt payment of the interest and principal at maturity, not only of the present bonded indebtedness of the city of Frankfort, but also of all bonds that may hereafter be issued by said city (as well as the interest on any bond of other corporations which the city of Frankfort is bound to pay) a sinking fund is hereby

Art. 7. Words in parenthesis repealed by ordinance of May 28, 1912.

§ 1. This section was amended May 28, 1912, so as that "All license fees collected from liquor, whether wholesale or retail, shall be paid into the Sinking Fund, to be used exclusively for the purpose of paying the interest and creating a fund for the extinguishment of the bonded debt of the city. All other license fees shall be paid to the City Treasurer and become a part of the general fund of the city." See Chapter 9, Article 5, Section 1.

That part of the section which refers to "bonds of other corporations" is now obsolete. It was inserted in order to provide for the payment of interest coupons issued by the Frankfort Water Co., under the old contract of 1884. These coupons have all been paid and the bonds matured and canceled.

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created to consist of all license of every descripton imposed by the common council and such other sum or sums as may be levied and collected in the way of taxes annually, as will be sufficient, when added to the amount realized from license to pay the interest and retire the principal of said bonded indebtedness as it matures (and to pay the interest on any bonds of any other corporation for which the city of Frankfort is bound as guarantor). (Oct. 20, 1893.)

§ 2. It shall be the duty of all officers of the city whose duty it is to collect or receive any part of the said fund so set apart to sinking fund to pay the same over as fast as collected to the treasurer of the board of sinking fund commissioners; first, however, obtaining a permit from the city clerk for the said payments and all such permits issued by the city clerk shall be dated; give the amount of payment to be made and the source from which the money to be paid was collected or received, and no collecting officer shall receive credit for payment made to the board of sinking fund commissioners until such officers returns to the city clerk receipt of the treasurer of the board of sinking fund commissioners therefor. (Oct. 20, 1893.)

§ 3. The board of sinking fund commissioners shall consist of the mayor, and two other persons not city officers who shall have the same qualifications as councilmen, to be appointed by the mayor at the second regular meeting in December, 1905, and shall hold their office for four years without compensation from January 1, 1906, or until their successors shall be appointed and qualified. (Oct. 20, 1893, as amended March 8, 1905.)

§ 4. It shall be the duty of the board of sinking fund commissioers to receive from the proper collecting officers of the city and to receipt to the same therefor all moneys and dues of every kind belonging to the sinking fund and the total resources of the said fund, from year to year shall be sacredly set apart and applied to the payments of the interest and principal of the city's debt chargeable on said funds, and to no other purpose, but whenever there shall be a surplus of said funds which cannot be applied on fair terms to the extinguishment of the liabilities of said city, chargeable on said sinking fund it shall be the duty of the board of sinking fund commissioners to invest such surplus in some good and solvent interest-bearing securities. (Oct. 20, 1893.)

§ 5. The mayor shall be ex-officio president of the board of sinking fund commissioners; and said board shall elect a secretary and also a treasurer from among the members, and all vacancies in said board shall be filled by appointment of the mayor with the consent of the common council just as the original appointments were made. (Oct. 20, 1893.)

§ 6. The secretary of said board of sinking fund commissioners shall keep a true and faithful record of its proceedings, acts, orders, or doings, and such records together with any and all books, papers and accounts appertaining to said sinking fund shall be subject at all times to inspection of the mayor, and any member of the common

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council, the said secretary and his sureties shall be liable on his offical bond as commissioner for his acts of secretary of said board. (Oct. 20, 1893.)

§ 7. The treasurer of said board of sinking fund commissioners shall have the care and safe keeping of said funds and his bond as commissioner shall bind him and his securities thereto for the safe keeping of all moneys, property, securities, bonds, evidences of debt, or other valuable things belonging to said fund which is in his possession, or may hereafter come to his hands or under his control, and his books, accounts, and all papers in his possession appertaining to said sinking fund shall be subject at all times to the inspection of the mayor and any member of the common council. (Oct. 20, 1893.)

BONDED INDEBTEDNESS At June 1, 1913

BONDS	Number	Serial Numbers	Date Issued	When Due	Amount	Rate of Interest	Coupon	
							When Due	Amount
School Funding Bonds	50	1 to 50	July 1-05	July 1-25	$50 000 00	6 Per Cent	July 1	$1 500 00
School Building Fund	20	1 to 20	July 1-04	July 1-24	10 000 00	6 Per Cent	Jan'y 1	300 00
							July 1	300 00
School Lottery Funding	20	1 to 20	Jan'y 1-11	Jan'y 1-31	10 000 00	6 Per Cent	Jan'y 1	300 00
							July 1	300 00
School Funding	25	1 to 25	July 1-04	July 1-24	25 000 00	5 Per Cent	Jan'y 1	625 00
							July 1	625 00
TOTAL SCHOOL BONDS	115				$95 000 00			$3 950 00
Funding Bonds	8	1 to 8	Sept. 1-04	Sept. 1-14	4 000 00			
	10	9 to 18	do	do-16	5 000 00			
	10	19 to 28	do	do-18	5 000 00	5 Per Cent	March 1	725 00
	10	29 to 38	do	do-20	5 000 00		Sept. 1	725 00
	10	39 to 48	do	do-22	5 000 00			
	10	49 to 56 59 & 60	do	do-24	5 000 00			
Renewal Bonds	120	1 & 120	July 1-97	July 1-27	120 000 00	4½ Per Ct.	Jan'y 1	2 700 00
							July 1	2 700 00
Renewal Bridge Bonds	39	1 & 36 47-48-49	Mar. 1-03	Mar. 1-23	39 000 00	4½ Per Ct.	March 1	877 50
			do	do			Sept. 1	877 50
Renewal Class B	25	5 to 12 14 to 23					Jan'y 1	500 00
		29 to 35	June 15-00	June 15-20	25 000 00	4 Per Cent	July 1	500 00
TOTAL---ALL BONDS	357				308 000 00			15 055 00

$5,000 Liquidated July 1, 1913.

SINKING FUND BUDGET From 1912 to 1927 Inclusive, Showing How Bonded Debt Can be Reduced to $93,000 by 1927 at Present Tax Rate and leave cash on hand at that time $40,815.20. In other words the net debt can be reduced to $52,184.80.

	Revenues	Total Revenue	Coupons Due	Bonds Due	Total	2 Per Cent Interest	Balance
Balance in Treasury May 1, 1912							$1 798 00
1912 Saloon Licenses							
Wholesale Beer Licenses	$10 000						
Tax at 20c	1 250						
	10 000	$21 250	$15 055		$15 055	$159 85	8 152 85
1913		21 250	15 055		15 055	286 95	14 634 80
1914		21 250	15 055	$4 000	19 055	335 55	17 165 35
1915		21 250	14 855		14 855	470 20	24 030 55
1916		21 250	14 855	5 000	19 855	507 50	25 933 05
1917		21 250	14 605		14 605	650 55	33 228 60
1918		21 250	14 605	5 000	19 605	696 40	35 570 00
1919		21 250	14 355		14 355	848 30	43 313 30
1920		21 250	14 355	30 000	44 355	403 15	20 611 45
1921		21 250	13 105		13 105	574 10	29 330 55
1922		21 250	13 105	5 000	18 105	648 50	33 124 05
1923		21 250	12 855	39 000	51 855	49 35	2 568 40
1924		21 250	11 100	5 000	16 100	153 35	7 871 75
1925		21 250	10 850		10 850	364 45	18 636 20
1926		21 250	10 850		10 850	579 70	29 615 90
1927		21 250	10 850		10 850	799 30	40 815 20
TOTALS		340 000	215 510	93 000	308 510	7 527 20	

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CHAPTER 10—SEWERS AND STREETS.

ARTICLE 1.

Sewers—Property Owners to Connect Them.

§ 1. That all property owners in the city of Frankfort, Ky., are hereby ordered and directed to connect their water closets, private sewers or drains of any kind whatever, with public sewers of the city which passes their respective property; said connection to be made within sixty (60) days after receiving notice of the passage of this ordinance. The city clerk is directed to furnish a copy of this ordinance for each and every person who may come under the provisions of this ordinance; the city clerk is directed to furnish a copy who may come under the provisions of this ordinance and deliver the same to the city marshal, who shall deliver one copy to each of the said persons, and make his return on a copy to be returned by him to the city clerk to be filed by the said clerk in his office and kept as other records are kept.

§ 2. Any person who shall fail to comply with the provisions of this ordinance after receiving the required notice, shall be deemed guilty of maintaining a nuisance, and upon conviction thereof in the police court shall be fined not less than five ($5) dollars nor more than ten ($10) dollars for each, and every day after the expiration of the said sixty (60) days. (March 3, 1902.)

ARTICLE 2.

Streets—Excavations of.

§ 1. That no person, firm, corporation or association shall be permitted to cut into or tear up a street, alley or roadway or pavement within the corporate limits of the city of Frankfort, until such person,

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Art. 1. For other provisions relating to streets, see Chapter 6.

Art. 1. Acceptance of work. Henderson v. Lambert Bogard v. O'Brien, 14 R., 648.

Contracts for improvements and liability of property owner. Board of Councilmen v. Murray, 99 Ky., 423, 18 R., 279. Lambert v. Thornbury, 153 Ky., 523; Lindsey v. Brawner, 29 R., 1236.

Corner lots—Assessment against. City of Latonia v. Carroll, 151 Ky., 165.

Dedication of Bogard v. O'Brien, 14 R., 648; Louisville v. Botts' Admr., 151 Ky., 578; Long v. Barber Asphalt Paving Co., 151 Ky., 1.

Defenses. Petter v. Allen, 21 R., 1122.

Joint liability of property owner for obstruction. De Garmo v. Vogt, 151 Ky.. 847; City of Carlisle v. Campbell, 151 Ky., 279.

Limitation. Board of Councilmen v. Waggoner, 30 R., 847.

Liens. Bogard v. O'Brien, 14 R., 648.

Mayor—Signature not necessary to ordinance for improvement. Becker v. City of Henderson, 100 Ky., 450, 18 R., 881.

Opening of. Dudley v. Trustees of Frankfort, 12 B. M., 610.

Original state—May be left in without liability. Gee's Admr. v. Hopkinsville, 154 Ky., 263.

Railroad company—Use of by. O. & R. Ry. Co., 10 Bush, 288; Comrs. City of Frankfort, 92 Ky., 149, 13 R., 705.

Sprinkling of by front foot—Ordinance requiring invalid. Owensboro v. Sweeney, 33 R., 823.

Use of must be reasonable. Stratton & Terstegge Co. v. Merriwether, 150 Ky., 363.

Title and possession to, in public. Cosby v. O. & R. Ry. Co., 10 Bush, 288.

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firm, corporation or association shall before doing said work obtain from the city clerk a permit so to do, and deposit with said clerk, either in cash or by certified check a sum equal to the estimated cost of restoring of said street, alley, roadway or pavement to its original condition. Said estimates to be made by city engineer at the time of the issual of said permit.

§ 2. Should any person, firm, corporation or association fail for 48 hours after completion of the repairs or work for which any street, alley, roadway or pavement may be cut into or torn up, to restore same to its original condition, the mayor may expend so much of the sum deposited as may be necessary to restore said street, alley, roadway or pavement to its original condition. But the mayor, city engineer, and chairman of the street committee may extend the time for restoring said street to its original condition. The mayor or city engineer shall determine what material shall be used in said work of restoration.

§ 3. Any person, firm, corporation or association who shall violate the provisions of the two foregoing sections shall be deemed guilty of a misdemeanor and upon conviction in the police court of Frankfort, shall be fined ten dollars ($10) for each offense and every 48 hours said opening remains unrepaired shall constitute a separate offense. (June 11, 1906.)

ARTICLE 3.

Cross Street—Name Changed to Fourth Avenue.

§ 2. That the name "Cross street," in the part of the city of Frankfort known as South Frankfort, be, and the same is hereby changed to that of "Fourth avenue," and the name of "Cross street" be, and the same is hereby ordered stricken from the map and plat of the city of Frankfort and that of "Fourth avenue" substituted in lieu thereof. (October 19, 1897.)

Lewis Street—Name Changed to Elk Place.

§ 4. That that portion of Lewis street being situated between Main and Broadway street in the city of Frankfort, and upon which the new Elks' Home is located, be changed to, and known hereafter, as "Elk Place." (November 17, 1902.)

ARTICLE 4.

Streets—Hauling Over Regulated.

§ 1. That it shall be unlawful for any person or persons to transport haul or convey, or cause the same to be done, any load, weight or burden over or through any of the paved streets; avenues or alleys of the said city of Frankfort, upon any wheeled vehicles having a tire of less than the following widths for the following loads, in ton weights, of two thousand pounds, the weight of the wagon or other vehicle excluded. On four wheeled vehicles for any load, exceeding one and one-

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fourth tons weight and not exceeding one and three-fourths tons, not less than two inches in width. For loads exceeding one and one-fourths tons weighed not exceeding two tons, not less than two and one-fourth inches in width. For loads exceeding three tons weight and not exceeding four tons not less than four inches in width. For loads exceeding four tons and not exceeding eight tons in weight not less than six inches in width.

Loads or burdens of over eight tons weight must be transferred or hauled on vehicle trucks or other carriages with rollers of not less than ten inches and must conform to the requirements of section four of this ordinance.

On two wheeled vehicles for loads or burdens of one-half ton weight and not exceeding three-fourths tons weight the width of the tire must not be less than two inches.

For loads exceeding three-fourths tons weight not less than three inches in width.

§ 2. It shall be unlawful for any person or persons to run, haul or propel or in any manner transport along or across any paved street, avenue or alley of said city any thrashing machine or other engine or heavy machine of any kind unless the tires of the wheels thereof conform for like weights to the tires of four wheel vehicles mentioned in section one of this ordinance and the weight of such engine or other machine at the time of the passage over the streets, etc., shall be deemed the load of burden; provided that the engine and machines whose tires do not conform, they too may be propelled or transported along or across said streets, avenues or alleys if the roadway be first suitably laid with plank not less than two inches thick and twelve in width under the direction of the committee on streets.

§ 3. The tire mentioned in this ordinance shall be deemed to be the portion of the wheel that comes in contact with the surface of street, etc., and the width of the tire shall be deemed to be the narrowest dimension of such contact.

§ 4. It shall be unlawful for any person or persons to move or cause to be moved any building or any load or burden exceeding eight tons in weight, along or across any such paved street, avenue or alley, except the roadway be first suitably laid with plank, not less than three inches thick and twenty inches wide under the directions of the street commissioner or committee of streets, and in no instance shall such building or load be moved or hauled except on rollers whose surface contact is at least fifteen inches in width.

§ 5. Any person violating the provisions of this ordinance on conviction shall be fined for the first offense in any sum not less than $5 nor more than $10 and for each subsequent offense not less than $50

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nor more than $200 or imprisoned not more than one hundred days, or both. (May 31, 1898.)

Streets—Trade and Sale of Stock Thereon.

§ 6. That the mayor and chief of police be and they are hereby instructed to prohibit the sale of live stock, or merchandise at auction or otherwise, unless directed by order of court, and to prohibit the trading of horses on the streets of the city, except at the place provided for that purpose, to-wit: At the west end of Clinton street, between Wilkinson street and the Kentucky river, and they are directed to prosecute for an obstruction of the streets, all persons who refuse to obey their orders in carrying into effect the provisions of this resolution. (Resolution Feb. 24, 1913.)

ARTICLE 5.

Streets—Tearing Up and Replacing.

§ 1. That no person, firm or corporation or association shall be permitted to cut into or tear up a street, alley, roadway or pavement within the corporate limits of the city of Frankfort until such person, firm, corporation or association shall before doing said work, obtain from the city clerk a permit so to do, and deposit with said clerk, either in cash or certified check a sum equal to the estimate cost of restoring said street, alley, roadway or pavement to its original condition. Said estimate to be made by the city engineer at the time of the issual of said permit.

§ 2. Should any person, firm, corporation or association fail for 48 hours after completion of the repairs or work for which any street, alley, roadway or pavement may be cut or torn up, to restore same to its original condition, the mayor may expend so much of the sum deposited as may be necessary to restore said street, alley, roadway or pavement to its original condition. But the mayor, city engineer and chairman of the street committee may extend the time for restoring said street to its original condition.

The mayor or city engineer shall determine what material shall be used in said work of restoration.

§ 3. Any person, firm, corporation or association who shall violate the provisions of the two foregoing sections shall be deemed guilty of a misdemeanor and upon conviction in the police court of Frankfort shall be fined $10 for each offense, and every 48 hours said opening remains unrepaired shall constitute a separate offense. (June 11, 1906.)

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